United Nations A/HRC/28/NGO/143

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Human Rights Council
Twenty-eighth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the International Gay and Lesbian Human Rights Commission, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

The LGBT rights situation in the Islamic Republic of Iran

The International Gay and Lesbian Human Rights Commission (IGLHRC) is deeply troubled by the Iranian authorities' systematic violation of individuals' rights based on their actual or perceived sexual orientation.

The Islamic Republic of Iran is a founding member of the United Nations, and one of the original signatories of the Universal Declaration of Human Rights. Despite this, Iran continues to implement laws and policies that are both discriminatory and unfairly biased.

The Universal Declaration of Human Rights starts by declaring that 'All human beings are born free and equal in dignity and rights", immediately adding that "Everyone is entitled to all the rights and freedoms … without distinction of any kind..."

The current laws and practices of the Iranian government, unfortunately, stand in sharp contrast to these promises. Article 237 of the 2013 Penal Code of the Islamic Republic of Iran officially declares being homosexual a crime, punishable by 31 to 74 lashes. In other words, the government of Iran considers having a different sexual orientation a valid legal ground for punishment, hence depriving thousands of gays and lesbians from enjoying equal rights and freedom that are protected under the Universal Declaration of Human Rights.

The Islamic Republic of Iran is also one of the few countries that continues to impose the death penalty for consensual same-sex relations between adult men[1]. In the words of Mr. Mohamad Javad Larijani, the top advisor to Iran's head of Judiciary, in the view of the Iranian government, the "right to life" is not applicable to homosexuals[2].

Over the years, IGLHRC and other human rights organizations have documented cases of arrest, torture, and mistreatment of individuals who were detained by the authorities because of suspicion that they were gay or lesbian.[3] These and other human rights violations against individuals accused of homosexuality were duly noted by Denmark during the October 2014 interactive dialogue with Iran, when they requested the Islamic Republic of Iran to ensure, "in accordance with ICCPR articles 5 and 7, freedom from torture while in detention for all, regardless also of sexual orientation."

Iran's violations of the human rights of those suspected of homosexuality is not limited to punitive measures. The government of Iran continues to limit freedom of speech regarding issues related to homosexuality. As IGLHRC has shown in its April 2014 submission to the UN Universal Periodic Review, over the past few years the authorities in Iran have banned publications, shut down newspapers, blocked access to websites, and terminated university professors airing issues related to homosexuality and sexual orientation[4]. Perhaps the best example of the Iranian government's strict censorship of such material is the state ban of the *Born Free and Equal* manual, which is an official publication of the United Nations Office of the High Commissioner for Human Rights[5].

In response to repeated requests by the international community, including UN treaty bodies (both Human Rights Committee[6] and Committee on Economic, Social and Cultural

[1] Article 233-236 of the 2013 Islamic Penal Code of the Islamic Republic of Iran.

[2] http://www.humanrights-iran.ir/news-30829.aspx [Last Accessed Februrary13, 2015]

[3] For a list of these arrests, please see December 20 letter to Iran's President : http://iglhrc.org/content/iran-joint-open-letter-iranian-president-rouhani

[4] http://iglhrc.org/sites/default/files/UPRSubmission.pdf

[5] http://www.ohchr.org/EN/Issues/Discrimination/Pages/BornFreeEqualBooklet.aspx

[6] Please see CCPR/C/IRN/CO/3 (2011) at http://www.ohchr.org/EN/countries/AsiaRegion/Pages/IRIndex.aspx

Rights[7]) and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran[8], the government of Iran continues to justify the human rights violations of individuals suspected of being gay or lesbian by religious and cultural arguments[9] and accuses UN officials of interference in Iran's domestic affairs and offending Iranian's religious beliefs.[10]

IGLHRC firmly believes in the universality of human rights principles. No state can shield behind religion, culture, or tradition to justify acts of discrimination, abuse, and deprivation of fundamental human rights. As a founding member of the United Nations and one of the first endorsers of the Human Rights Declaration, and as a state party to International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, Iran has a responsibility to treat all individuals equal, without any distinction based on their sexual orientation and/or gender identity.

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[7] Please see E/C.12/IRN/CO/2 (2013) at http://www.ohchr.org/EN/countries/AsiaRegion/Pages/IRIndex.aspx

[8] Please see (A/HRC/19/66) at http://www.ohchr.org/EN/countries/AsiaRegion/Pages/IRIndex.aspx

[9] Statements by Ayatollah Amoli Larijani, head of Iran Judiciary on August 14, 2014: http://www.farsnews.com/newstext.php?nn=13930520001280 [last accessed February 13, 2015]

[10] Statement by Mr. Javad Larijani on Iran's national TV, March 17, 2014: http://isna.ir/fa/news/92122617115/%D8%A7%D8%AD%D9%85%D8%AF-%D8%B4%D9%87%DB%8C%D8%AF-%DA%AF%D8%B2%D8%A7%D8%B1%D8%B4%DA%AF%D8%B1%DB%8C-%D9%86%D9%85%DB%8C-%DA%A9%D9%86%D8%AF-%D9%81%D8%B1%D8%AF%DB%8C-%D8%B1%D8%A7-%D8%A8%D9%87-%D8%AF%D9%84%DB%8C%D9%84 [last accessed February 13, 2015]

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Human Rights Council
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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Friends World Committee for Consultation, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

The Right to Conscientious Objection to Military Service

Friends World Committee for Consultation (Quakers) would like to draw the Human Rights Council's attention to the developments in regard to the right to conscientious objection to military service since Human Rights Council resolution 24/17 (A/HRC/24/17) of 27 September 2013. As stated in this resolution the right to conscientious objection to military service is protected under the right to freedom of thought conscience and religion.

International Protection: UN High Commissioner for Refugees (UNHCR) Guidelines on International Protection No. 10: on claims to refugee status related to military service[1]

These guidelines replace UNHCR's 1991 position on certain types of draft evasion and provide legal interpretive guidance to aid States in the assessment of claims for refugee status from those fleeing persecution resulting from their conscientious objection to military service.

The Guidelines recognize that conscientious objectors are not a homogenous group, covering a range of bases for objection including religious objection and political objection. The Guidelines are also clear that protection is not limited to total objectors; there should be protection for partial or selective objectors and for those who volunteered or initially agreed to participate in military service and for reservists. The Guidelines state that "States can legitimately require that citizens perform military or alternative service", however, any such service must be "compatible with the reasons for the conscientious objection" as well as of a non-combatant or civilian character, in the public interest and not punitive. Because these are refugee status determination guidelines they look at what should be considered as persecution resulting from conscientious objection to military service. In addition to the most obvious resultant rights violations such as imprisonment and other punishments the guidelines are clear that other impacts may amount to persecution either cumulatively or in and of themselves. Discrimination and other rights violations experienced by conscientious objectors are explored in our paper *Conscientious objectors to military service: Punishment and discriminatory treatment*[2] and in our written statement to the 25th Session of the Human Rights Council.[3]

Right to liberty: Human Rights Committee Jurisprudence

In its most recent jurisprudence on this issue the Human Rights Committee reiterated its well established position that States' lack of recognition of conscientious objection is a violation of Article 18 of the International Covenant on Civil and Political Rights' protection of freedom of thought conscience and religion.[4] For the first time the Committee also found that the incarceration of conscientious objectors because of their refusal to perform military service qualifies as arbitrary deprivation of liberty and violates Article 9:

Just as detention as punishment for the legitimate exercise of the right to freedom of expression, as guaranteed by article 19 of the Covenant is arbitrary, so is detention as punishment for legitimate exercise of freedom of religion and conscience, as guaranteed by article 18 of the Covenant.[5]

Lack of Domestic Provision: Universal Periodic Review (UPR) Recommendations

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[1] UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 10: Claims to Refugee Status related to Military Service within the context of Article 1A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees, 3 December 2013, HCR/GIP/13/10/Corr. 1

[2] Emily Graham *Conscientious objectors to military service: Punishment and discriminatory treatment* (Quaker United Nations Office, 2014)

[3] Written statement submitted by Friends World Committee for Consultation, a non-governmental organization in general consultative status: Conscientious objection to military service, A/HRC/25/NGO/32 of 21 February 2014

[4] *Young-kwan Kim et al v Republic of Korea* (CCPR/C/112/D/2179/2012 of 14 January 2015)

[5] *Young-kwan Kim et al v Republic of Korea* (CCPR/C/112/D/2179/2012 of 14 January 2015), para. 7.5

During the review of Turkey in the UPR three recommendations were made to Turkey to recognize conscientious objection in law and practice.[6] All three recommendations were rejected without further consideration despite repeated European Court of Human Rights judgments requiring this of Turkey[7] and Human Rights Committee concluding observations.[8] In further violation of the International Covenant on Civil and Political Rights and the European Convention on Human Rights the Sivas Military Court in Turkey sentenced conscientious objector Mehmet Tarhan to a further 15 months in prison on 10 February 2015.

We call on Turkey to reconsider its rejection of the UPR recommendations on conscientious objection.

National Legal Protection: Colombian Constitutional Court

We welcome the recent decision of the Colombian Constitutional Court which ruled again that the right of conscientious objection to military service must be recognized and ordered the National Recruitment Office to:

- allow for applications for conscientious objection and resolve all applications within 15 days
- publish information outlining the grounds for exemption or deferral of military service and their right to conscientious objection to military service
- end arbitrary detention resulting from "batidas" (recruitment raids)

The Constitutional Court clearly states that there is a right to claim conscientious objection for serving military personnel. The Court has asked the army to report on implementation within six months.
We call on Colombia to comply promptly with this ruling.

New Publication

Developments in the international standards are expanded in our updated publication *International Standards on Conscientious Objection to Military Service*.[9]

Recommendations

FWCC (Quakers) calls on the UN Human Rights Council to:

i. continue to pay attention to the protection and promotion of the right to conscientious objection to military service;
ii. specifically include the promotion and protection of the right of conscientious objectors to military service in relation to relevant thematic resolutions; and
iii. urge States to
    a. fully implement the right of conscientious objection to military service in law and practice;
    b. end the prosecution and imprisonment of all conscientious objectors;
    c. immediately release imprisoned conscientious objectors and clear their criminal records;
    d. provide conscientious objectors with the necessary documentation to interact with the State and enable full access to education and employment;
    e. prohibit discrimination against conscientious objectors, in law and practice, in relation to their terms or conditions of service, and all any civil, political, economic, social or cultural rights; and to
    f. follow the UNHCR Guidelines when assessing claims for refugee status related to military service.

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[6] Human Rights Council, Draft report of the Working Group on the Universal Periodic Review: Turkey, A/HRC/WG.6/21/L.12 of 29 January 2015, paras. 8.12-8.14

[7] Osman Murat Ülke v. Turkey, 39437/98, 24/01/2006; Yunus Erçep v. Turkey, 43965/04, 22/11/2011; Feti Demirtaş v. Turkey, 5260/07, 17/01/2012; Halil Savda v. Turkey, 42730/05, 12/06/2012; Mehmet Tarhan v. Turkey, 9078/06, 17/07/2012

[8] CCPR/C/TUR/CO/1, 2nd November 2012, Para 23

[9] See www.quno.org

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Human rights situations require the Council's attention

Written statement* submitted by the International Association against Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Towards Accountability and Justice for Iraq

March 20, 2003 marks a dark day in the history of the 21st century. On that day, the United States and its allies, mainly the United Kingdom, led an illegal war on the independent UN member state of Iraq, resulting in a devastating occupation. Twelve years after the invasion, the full scale of the destruction has become apparent, yet the injustice inflicted has still not been properly rectified – be it morally, materially or any other way.

Until this day, the people of Iraq are waiting in vain for an official apology, the perpetrators to be held accountable and compensation to be paid. Correctly acknowledge and address injustice, ending impunity for perpetrators of mass atrocities and providing measures of satisfaction however is the only way to uphold the moral authority of the international community, prevent future atrocities and create sustainable peace.

Future generations will wonder why so many were silent when the very foundations of the United Nations Charter were violated, including the principles of sovereign equality of states and non-intervention, the validity and respect for international treaties, or the respect and promotion of human rights, democracy, and the peaceful resolution of conflicts? How could morality, justice and law be trampled over with impunity in front of the UN Security Council, states and individuals? And finally, how was it possible that an event so recent could be so completely forgotten?

Truly effective measures have to be taken for Iraq. The widespread and systematic human rights violations committed during the sanctions and under the invasion and occupation must be investigated by an independent international body, perpetrators need to be brought to justice and victims have to get their rights restored.

Supreme international crimes

The economic sanctions imposed by the UN Security Council on Iraq in 1990 were a 'faulty punitive measure(s) and represented clear violations of international law.'[1] The sanctions remained in place for almost thirteen years despite their harsh and known impact on innocent Iraqi civilians. The USA and U.K. had been most vocal in maintaining sanctions.

The immediate consequence of the sanctions was a dramatic fall in living standards, the collapse of the infrastructure, health and education systems and a serious decline in the availability of other public services, exemplified by a decline in life expectancy, increased infant and child mortality.[2] The sanctions resulted in the death of 1,5 million Iraqi, out of which half million were children. Some therefore would go as far as to marking charge of genocide.[3]

The decision was taken unilaterally by the US and its allies based on the false claim that Iraq possessed weapons of mass destruction. Also the invasion and subsequent occupation of Iraq in 2003 were in a clear breach of Article 2 (4) of the UN Charter accompanied by grave violations of the Geneva Conventions of 1949 and the 1977 Protocols.

Thus, the war on Iraq was a war of aggression, which according to the International Military Tribunal of Nuremberg "is not only an international crime; it is the supreme international crime, differing only from other war crimes in that it contains within itself the accumulated evil of the whole." An act of aggression is further recognized as an international

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[1] "*The effects of sanctions on Iraq*", *Hans Von Sponeck*, 9 November, 2001 at: http://www.youtube.com/watch?feature=player_embedded&v=83-encHyPrw

[2] Infant mortality rates between 1994 and 1999 rose to 108 per 1,000.[2] Child mortality rate, which refers to children between the age of one and five years, also drastically increased from 56 to 131 per 1,000.

[3] "*The Adverse Consequences of the Economic Sanctions on the Enjoyment of Human Rights*", Working Paper prepared by Mr. Marc Bossuyt, E/CN.4/Sub.2/2000/33, 21 June, 2000.

crime in the Rome Statute of the International Criminal Court. Injustice inflicted on Iraq therefore must be addressed as a serious crime and all responsible be held accountable.[4]

The Suffering

The suffering inflicted on the Iraqi people is still widely ignored by the international community. No justice has been found for all those Iraqi who died as a direct result of the invasion.[5] Various estimations suggest figures to be from 1.5 up to 2 million Iraqi civilians who died as a result to the US invasion and occupation. We should also not forget that almost 5 million children have lost a parent and about estimated 5 million internally and externally displaced people (up to 20% of the Iraqi population) who more often than not often live in dire conditions of extreme poverty[6] and who are subjected to multiple displacements.[7]

Amid the worrying figures is also the number of missing people as a consequence of the war. Different estimations range from 250.000 up to one million[8]. Their traces vanished[9] in the chaos of war and occupation, during which targeted attacks, arbitrary arrests and extrajudicial executions occurred on a regular scale and continue until today. Although the right to truth related to enforced disappearances is recognized in a number of international instruments[10] and essential to end psychological torture and for societal healing to take place,[11] thousands of Iraqi families have been left alone by both, the US and the Iraqi governments, in search for their relatives so far.

The situation reflects the failure of the US and UK to hold their troops accountable for abuses in detention and extra judicial killings. The impunity with which these forces operated has paved the way for the current government to make excuses for abuses, failure of law and public order and lack of accountability.

Before the war, women in Iraq made important advances in regards to access to education, health care, family rights, the right to serve in the government and active involvement in the political life and economic sphere. The US-invasion and occupation of Iraq further worsened the situation of women, which had already deteriorated seriously during the UN sanctions. Several NGOs documented a wave of sexual violence and abductions against women in Baghdad following

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[4] *"International court could try Iraq war crimes"*. N Fermuoz, San Jose, 26 March, 2003 at:http://www.lawyersagainstthewar.org/legalarticles/icc.html

[5] Without deaths among the millions of displaced Iraqis. Academic estimates range from less than half a million to more than a million. John Tirman, the principal research scientist at the MIT Centre for International Studies, has examined all the credible estimates and found that average figures suggest roughly 700,000. The guardian, 7 February 2014, "The truth about the criminal bloodbath in Iraq can't be 'countered' indefinitely" http://www.theguardian.com/commentisfree/2014/feb/07/west-criminal-bloodbath-iraq-media-cover-up?CMP=fb_gu

[6] *"10 years on: 'Living in prolonged limbo'"*.International Rescue Committee: Iraq, at:http://www.rescue.org/blog/iraq-10-years-living-prolonged-limbo

[7] 2014 UNHCR country operations profile – Iraq, athttp://www.unhcr.org/pages/49e486426.html

[8] A report issued by the International Red Cross in 2009 noted that the number of missing in Iraq has reached one million people.

[9] *"Restoring Names to War's Unknown Casualties"* at: http://www.nytimes.com/2010/08/31/world/middleeast/31legacy.html?_r=2&hp

[10] Working Group on Enforced or Involuntary Disappearances, General Comment on the Right to the Truth in Relation to Enforced Disappearances http://www.ohchr.org/Documents/Issues/Disappearances/GC-right_to_the_truth.pdf

[11] *"The right to the truth in international law: fact or fiction?"*Yasmin Naqviat: http://www.icrc.org/eng/assets/files/other/irrc_862_naqvi.pdf

the invasion.[12] Accusations were made against the invading armies of abuses and rapes. Many women were taken hostage, tortured, and sexually abused.[13]

In the present-day Iraq, women continue experiencing widespread human rights violations. The government forces, militias and terrorist groups, intimidate girls and women through physical violence, sexual harassment or rape. Using the environment created by the war. Sexual abuse as a method of torture against female prisoners is not confined to the notorious Abu Ghraib prison.[14]

The main issue at hand here is the huge failure by the courts to investigate allegations of abuse and hold the abusers responsible and accountable, which encourages police and security forces to falsify confessions and continue the use torture and sexual assault.[15] Women's rights are nothing more than mere words introduced by the US and British occupying forces while the reality of Iraqi women is a life of fear and violence after the invasion.

The environment falls victim to the catastrophic Anglo-American-led war and occupation and the use of unlawful weapons, but the effects of most dire concern are those that have befallen the Iraqi population. In a serious breach of the international law, the coalition forces used thousands of tons of white phosphorous[16] and depleted uranium ammunition during the war, which contain high levels of radiation and toxics that have dangerous and enduring health-related effects. The dark consequences of this grave disregard for the law and human life have been materializing at a rapid rate over the past few years in the form of horrific physical deformities and illnesses. They remain however largely ignored by the international community and the perpetrators continue to evade responsibility and justice.[17]

Following many years of sanctions, the 2003 invasion has further destroyed the country's **infrastructure**. This can be seen in the current state of all public services. As of February 2015, Iraq's electrical infrastructure, oil industry, irrigation network, bridges, roads, water, sewage treatment, airfields, communication systems, factories, and ports continue to be in a very poor state.

Prior to the invasion, the Iraqi health and educational systems[18] were considered to be the most advanced in the region. During the 1970s, subsequent to the oil industry being nationalized, a centralized system of **healthcare** was established in Iraq[19]. Now, health care in Iraq almost doesn't exist, most of the experienced physicians had left the country to protect their lives.

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[12]Human Rights Watch (2003) athttp://www.hrw.org/reports/2003/07/15/climate-fear-0

[13]Global Research (2005) athttp://www.globalresearch.ca/iraqi-women-under-us-occupation/158

[14]*Ibid*

[15]*Ibid*

[16]The US has admitted that it used phosphorous bombs in Iraq, although it denies that it was used against civilians at http://www.thetimes.co.uk/tto/news/world/middleeast/iraq/article1993511.ece

[17]- The calculations indicate that the inhalation of depleted uranium dust from the weapons used in Iraq may cause an additional 3 million deaths. This is approximately 11% of the country's total population of 27 million *"Depleted Uranium – Far Worse Than 9/11"*, Doug Westerman, Global Research, 3 May 2006 at: http://www.globalresearch.ca/depleted-uranium-far-worse-than-9-11/2374

[18]*Ibid 1*

[19] - The country's immense oil reserves were used to pay for free healthcare, medication and medical equipment, including foreign healthcare workers.

The educational system was one of the best in the region with over 100% gross enrolment rate for primary schooling and high levels of literacy, both of men and women. UNICEF statistic report of 2015 put the total adult literacy rate in Iraq at 79% for the period 2009/2013.[20].

Conclusion

For accountability and justice in Iraq to be achieved and to bring an end to the suffering of Iraqi people and to prevent future atrocities, concrete actions should be undertaken.

The NGOs signatories to this statement call on the United Nations in general and the Human Rights Council in particular to:

- Ensure that all human rights violations in Iraq during the sanctions and the invasion and occupation be investigated by an international independent body.
- Undertake all measures possible to end the current state of impunity within Iraq and with regard to the culpability and responsibilities of the occupying powers.
- Appoint a UN Special Rapporteur for the Human Rights situation in Iraq.

[20] UNICEF, State of The World's Children 2015 Country Statistical Information 2009-2013 http://www.unicef.org/infobycountry/iraq_statistics.html

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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Al-Haq, Law in the service of man, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Upholding Justice at the Human Rights Council: Necessary Action to Address Israeli Impunity

Al-Haq welcomes the opportunity to participate in and contribute to the Human Rights Council (HRC), particularly under Agenda Item 7. Al-Haq remains deeply concerned about Israel's prolonged occupation and its continued breach of international law in the Occupied Palestinian Territory (OPT). Israel's offensive in both the West Bank and the Gaza Strip during the summer of 2014, which killed over 2,000 Palestinians, is a stark reminder of Israel's impunity. Israel not only repeatedly fails to fulfil its obligations as an Occupying Power, it unquestionably benefits from its violations of international law, including through its settlement enterprise and control over Palestinian natural resources. In this statement, Al-Haq will highlight Israel's overarching methods of control in the West Bank, and the failure to provide any means of redress for Palestinian victims. Al-Haq will also provide the member states of the HRC with recommendations necessary for the plight of justice in addressing the Israeli occupation.

Excessive use of force and impunity

Israel's "Operation Brother's Keeper" in the West Bank during the summer of 2014 was characterised by unlawful and excessive use of force, arbitrary arrests and detention, home-raids and village closures that may amount to collective punishment, and the confiscation of property estimated at approximately $3 million.[1] "Operation Brother's Keeper" is reflective of Israel's broader ongoing policy of excessive use of force against Palestinian civilians. For example, on Monday 29 December 2014, the Israeli Occupying Forces (IOF) opened fire on and killed Palestinian youth, Imam Jamil Duweikat, 16, just south of Nablus city. There were no protests or clashes in the area at the time of the incident. In 2014, sixty-one Palestinians have been killed by IOF in the West Bank, including 31 killed during the summer offensive and 18 children in total.[2] From these incidents, only one Israeli policeman appears to have been prosecuted.[3]

Over the past year, Israel has also resumed its unlawful policy of punitive house demolitions, targeting 11 Palestinian houses and leaving 30 people displaced. One such incident occurred in August 2014 in Hebron, when Israeli forces demolished the homes of two suspects and made the home of a third suspect uninhabitable. At the time of this action, two of the suspects were at-large and had not been brought before a court to determine their guilt. The third suspect, while detained at the time, had not been sentenced.

Proliferation of settlements and exploitation of Palestinian natural resources in Area C

Israel's expansion of settlements and confiscation of Palestinian land continues unabated. In 2014 alone, nearly 17,433 dunums (approximately 4,307 acres) of land were confiscated in the West Bank; settlement expansion and land confiscation for 2014 was considered at one of its highest levels in years.[4]

The effects of Israel's settlement policies are clear: Palestinian land and resources are appropriated with their use benefiting the settler population and Israel's private economy; Palestinian livelihoods are diminished through dispossession, displacement and restrictions on freedom of movement and access; and, territorial contiguity necessary for a viable Palestinian state is being destroyed. As a result, West Bank communities are not only separated from Gaza, but also from each other.

Beyond the immediate consequences of Israel's settlement enterprise are the broader issues of the fundamental Palestinian right to self-determination, which includes sovereignty over land and natural resources. Most recently, in its

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[1] Euro-Mid Observer for Human Rights estimated that during the first 3 weeks of Israeli raids, Israeli forces took approximately $3 million in cash and property. http://euromid.org/en/article/533/Report:-Israeli-Forces-Stole-3-USD-Million-in-Cash--Property-from-Palestinians-During-West-Bank-Raids#sthash.IjnZ08us.pZwFCoyj.dpbs

[2] Al-Haq is defining the period of Operation Brother's Keeper from 13 June 2014 until the end of August 2014.

[3] http://www.reuters.com/article/2014/11/23/us-mideast-palestinians-israel-manslaugh-idUSKCN0J70FF20141123

[4] Statistics according to the Land Research Center. The 17,433 dunums of land includes lands that were previously confiscated, and in had their confiscations orders in 2014 extended until 2017.

Concluding Observations on Israel, the Human Rights Committee (Committee) urged Israel to "Ensure and facilitate non-discriminatory access of Palestinians in the Occupied Palestinian Territory, including East Jerusalem, to land, natural resources, water and sanitation."[5]

Rather than being the foundation for an independent Palestinian economy, agricultural land and natural resources including water, minerals, and oil and gas reserves in the OPT are being appropriated and exploited by Israel. In 2013 the World Bank estimated that the Palestinian economy loses $3.4 billion annually due to Israel's control over Area C, where the majority of natural resources are located.

The oil and gas industries are one clear example of Israel's control over resources and corresponding deliberate stagnation of the Palestinian economy. The Meged oil field spans from the West Bank Palestinian village of Rantis to *Rosh HaAyin* in Israel. Since 1948, Israel has repeatedly expropriated land from Rantis and its surrounding area for so-called "military training zones"[6] and settlements. More land was confiscated in 2003 for the construction of the Annexation Wall, which effectively creates an enclave around Rantis. Although the Palestinian Authority issued a global tender for oil exploration in 2014, any development of hydrocarbons by the PA at Rantis is unlikely as it straddles both Area B and Area C, and would therefore require Israeli permission. Instead, Israel continues to mine and exploit oil at Meged-5, a well extending into Palestinian territory at Rantis, for its own benefit."

Israel has also prevented access to the Palestinian Gaza Marine gas resources through its continued closure of Gaza's borders, including its shore. Although the Gaza Marine field is just under 20 nautical miles offshore and therefore within the area agreed upon for economic development by Oslo II (the Israeli-Palestinian Interim Agreement), Israel has imposed a 6-mile nautical closure of Gaza, making the field inaccessible. Fishermen operating well within this limitation have been routinely shot at by the Israeli navy, arrested, and have had their equipment and boats confiscated or destroyed.

In addition to gas and oil, water resources are also targeted by Israel. Israel regularly demolishes water structures in the West Bank, destroyed water structures in Gaza during its 2014 offensive, prevents the maintenance and construction of structures in Area C, effectively prevents such maintenance in Gaza due to the closure, and damages the supply to natural springs through settlement construction. The resultant effect of Israel's comprehensive, inequitable water policy is a water and sanitation crisis throughout the OPT. The exploitation of these and other natural resources by the State and businesses comes alongside deliberate attacks against other Palestinian resources by Israeli settlers. Between 30 December 2014 and 12 January 2015 alone, Israeli settlers vandalised 5,500 olive saplings and trees.

Item 7 as a means of accountability

There has been no real accountability for Israel's continued excessive use of force against Palestinian civilians. Indeed, members of the IOF are rarely prosecuted, while international efforts are largely ignored or hindered, as seen by the 2014 Gaza Commission of Inquiry's inability to enter the Gaza Strip following Israel's insistence on non-cooperation.

Likewise, the Israeli Occupying Power continues to appropriate Palestinian land, and to exploit natural resources or obstruct their development into viable economic products by Palestinians. Al-Haq underscores that an appropriate mechanism for reparation is not only a means for justice, but also for fulfilling the right to self-determination and sovereignty over natural resources. Notably, UN General Assembly resolutions have recognized the Palestinian right to "claim restitution as a result of any exploitation, damage, loss or depletion, or endangerment of their natural resources resulting from illegal measures taken by Israel."[7]

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[5] Id.

[6] Declaring land as military zones are one method of appropriation of land by Israel. According to OCHA, approximately "18% of the West Bank has been designated as a closed military zone for training or "firing zone".
http://www.ochaopt.org/documents/ocha_opt_firing_zone_factsheet_august_2012_english.pdf

[7] United Nations General Assembly Resolution 66/225 of 29 March 2012, paragraph 3. *See also* General Assembly Resolution A/RES/69/233 from December 2014 which expanded claims to damage caused by Israeli settlers. UN document A/69/475. The preceding Special Rapporteur on the situation of human rights

Al-Haq accordingly calls on member states of the HRC to:

- Support UN HRC resolutions that affirm the Palestinian right to self-determination and permanent sovereignty over their natural resources and promote the idea of reparation, and accordingly:
- Recall the precedent set by 'conflict diamonds' and to support the establishment of an effective mechanism to investigate and report on, *inter alia*, business interests and the relationship between trade in settlement products and the entrenchment of the settlement enterprise;
- Draft and implement official guidance targeting companies based in the jurisdiction of member states, so that they do not participate in or benefit from Israel's illegal settlement enterprise, and more broadly ban products from settlements; and
- Fully and actively participate under item 7, including by supporting and endorsing the Commission of Inquiry's upcoming report, as well as resolutions under this item that promote the protection of the Palestinian people in conformity with international law. Full accountability for Israel's actions in the OPT is necessary to ensure greater protection for the civilian population.

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in the Palestinian territories also suggested called upon Israel to provide reparations. *See* Situation of human rights in the Palestinian territories occupied since 1967, 19 September 2012, A/67/379, para. 94

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Human Rights Council
Twenty-eighth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Union of Arab Jurists, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

The Situation of Arbitrary arrests and enforced disappearances in Iraq

As of February 2015, thousands of Iraqi people still in unknown persons or detention centres. The well-known practice of arbitrary arrests, unlawful detentions, enforced disappearances, torture and other forms of ill-treatment in Iraq constitutes a serious violation of the international human rights law, international criminal law and international humanitarian law. The Iraqi government and its state agents consistently implement policies and carry out actions that infringe the right to liberty and security of a person, the right to a fair trial, including habeas corpus and an absolute prohibition of torture and ill-treatment. These violations are widespread and systematic. The perpetrators know that their conduct is part of an attack against civilians, which amount to crimes against humanity in accordance with international law. The international community should undertake immediate and effective measures to halt this practice and to ensure that the perpetrators brought to justice and victims restored in rights and compensated.

Systematic and Widespread Unlawful Arrests

An alarmingly increasing rate of targeted and random arrests without warrant, charges or based on suspicion of involvement in terroristic activity further agitate the sectarian tensions and cause more violence in Iraq. The current Iraqi administration continues this misconduct in a systematic and widespread manner. The arrests are often indiscriminate in nature and represent a regular well-known practice with the excessive use of force, including lethal force during the arrest raids, especially those conducted by the Minister of Interior, Counter-Terrorism Directorate and the Ministry of Defence. The majority of the arbitrary arrests are sectarian and politically motivated under the pretext of the fight against terrorism. The sectarian nature of these attacks against certain religious group represents a discrimination based on distinctive characteristics. The perpetrators are well aware of the sectarian policy. The afore-mentioned fulfil the elements of a crime against humanity.

The arrests in the interest of the supposed public safety and security target either a specific political figure or a particular group. Several non-governmental organisations, pointed out numerously through urgent appeals, written statements and press releases, the majority of arbitrary arrests based on the prefabricated charges of terrorism were undertaken with a political agenda in mind[1]. Even those persons who were part of the so-called political process were targeted seemingly on a sectarian basis[2].

The Iraqi society also suffers from massive arbitrary arrests. The following examples give a clear snapshot of the situation: the arrest of approximately 1,500 persons following the direct order of al-Maliki[3], indiscriminate arrest of at least 4000 persons in one single act before the summit of the Arab League in March 2012.

Further alarming waves of arrests occurred in August 2013 under the campaign officially named "Thár al-Shuhadá" or "Martyrs' Revenge". More than 1,000 persons arrested and dozens killed in the operation around Baghdad and Al-Anbar and other provinces as "terrorists", which also undermines the presumption of innocence. "The name of the campaign itself – 'Martyrs' Revenge' is indicative of Maliki's promotion of revenge and not only gives a sense of justification for the mass arrests being executed but incites sectarian support for a highly unjustly-executed operation"[4] [5]

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[1] - See http://www.gicj.org/index.php?option=com_frontpage&Itemid=42

[2] - for example in the cases of Ahmed al-Alwani (Member of the Parliament), Rafa al-Essawi (then Finance Minister), Tariq al-Hashemi (Vice-President).

[3] "*Iraq: Mass Arrests, Incommunicado Detentions*", Human Rights Watch, May 2012 at http://www.hrw.org/news/2012/05/15/iraq-mass-arrests-incommunicado-detentions

[4] "*GICJ appeals to High Commissioner for Human Rights and Special Rapporteurs on the mass human rights violations in Iraq*", August 2013 at: http://gicj.org/index.php?option=com_content&task=view&id=326&Itemid=197

[5] Ms. Etab Al-Douri, a Member of the Parliament, expressed her belief that those arrested are innocent and stressed that the campaign is strategically sectarian in nature. She stated that if one examines the geographic

Detention in Violation of Due Process and Fair Trial Guarantees

The illegal invasion to Iraq resulted in the destruction of the entire Iraqi judicial system. '..the dismantling of state institutions under the occupation and methods introduced by the US-Forces, who established the Special Police Commandos and set up prisons like Abu Ghraib.'[6] The corruption in the administration of justice undermines the credibility of justice system and casts doubts on conviction of persons accused in such a serious crime as an act of terrorism. The interference of the executive in the affairs of the judiciary undermines one of the core elements of a democratic state such as separation of powers. During the 79th anniversary of the Iraqi Bar Association The Iraqi Prime Minister expressed congratulations to those lawyers who refuse to represent the 'terrorist' detainees and clear threats to those lawyers who defend them is one of the outrageous examples of public interference.[7]

Serious violations of the arrested person's rights provided for in the International Covenant on Civil and Political Rights (ICCPR) and other core international instruments that Iraq has ratified represent regular and widespread practice. The fate of an arrestee can be easily predicted in advance: unlawful detention, torture and/or ill-treatment and questionable sentence. Following the arbitrariness of arrests, the detainees face abuse of due process and fair trial guarantees. There are a number of complaints on lengthy and unreasonable delays in informing the detainees about charges against them. The practice of torture and ill-treatment during interrogations in the places of detention run by the Ministry of Interior and Anti-Terrorism Directorate are documented. The confessions obtained by torture and ill-treatment are often used as evidence in the court to convict in the absence of credible evidentiary material. According to the Iraqi law, the accused are provided with free legal representation, but there are complains that the accused meet the state-appointed lawyers for the first time at the court proceeding.
These allegations represent serious violations of customary international law, the provisions of the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment. The most disappointing is that, as noted by the report of the UN Mission in Iraq, the government of Iraq fails at making significant progress in implementing the legal, institutional and policy reforms to ensure the respect for the provisions of the Iraqi Constitution and international human rights law.[8]

Enforced Disappearances and Secret Detentions

The Convention for the Protection of All Persons from Enforced Disappearance, which Iraq has ratified in 2010, provides that *"no one shall be subjected to enforced disappearance"* and that *"no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance."* According to the Rome Statute of the International Criminal Court *"when committed as part of a widespread or systematic attack directed at any civilian population, a "forced disappearance" qualifies as a crime against humanity, and thus is not subject to a statute of limitations"*.

The situation in Iraq is dramatic. NGOs continuously emphasises how widespread and systematic is this misconduct and its impact on the Iraqi society.[9] Rough estimates indicate more than one million persons have disappeared in Iraq. According to the UN data, the country has the most disappeared in the world.[10]

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location of the campaign, it becomes evident that it is systematically concentrated in particular sect-dominated areas, and that a review of past operations and campaigns demonstrates that it : always certain sects that are targeted. An interview given to Al-Sharqiya News on 20 August 2013.

[6] *"NGOs urge UN to stop death penalty in Iraq: the Government of Iraq can no longer arbitrarily execute people at will and with impunity"*. May 2013 at:
http://gicj.org/index.php?option=com_content&task=view&id=309&Itemid=197

[7] *"Iraq - Continuous interference of the executive in the judiciary"*, at:
http://gicj.org/index.php?option=com_content&task=view&id=116&Itemid=52

[8] *"Report on Human Rights in Iraq: January-June 2013"*, UNAMI and UN OHCHR, August 2013, Baghdad.

[9] *"Iraq- Attacks and disappearances involving the Ministry of Higher Education Personnel"*, November 2012 at:
http://gicj.org/index.php?option=com_content&task=view&id=122&Itemid=52

[10] The ICRC's Paul-Henri Arni said that Iraq after three conflicts – a war with Iran in the 1980s, the first Gulf War in 1991 and the U.S.-led operation in 2003 – was probably facing the highest number of missing people in the world. *"Accounting for missing people*

The problem of the disappeared and/or missing persons in Iraq is treated with secrecy by the authorities and the given figures are downplayed and very unreliable. Iraq says it has no central database to try to link the unidentified bodies that have been buried anonymously with the list of names of the missing. Moreover, the victims' families are often reluctant to claim the bodies from the six Medico-Legal Institutes around the country for fear of reprisals. Even looking for missing relatives in hospitals is not safe. In addition, there are reports of bodies that end up buried in mass graves and are not recorded at the morgues.

Disappearances still occur on a very regular basis in Iraq. The most important parties involved now are the Iraqi army, police, various militias and terrorists group. 'Often, forced disappearance implies murder. The victim in such a case is first abducted, then illegally detained and often tortured; the victim is then killed, and the body is then hidden. Typically, a murder will be surreptitious, with the corpse disposed of in such a way as to prevent it ever being found, so that the person apparently vanishes. The party committing the murder has deniability, as there is no body to prove that the victim has actually died.'[11]

Moreover, the growing phenomenon of secret prisons in Iraq, which even international organizations have failed to locate, leads to a large number of reported and unreported cases of forced disappearances. "There is no safe place in Iraq. People can be disappeared and sent to secret, illegal detention centres anywhere in the country, without the knowledge of the family or the person's lawyer……Many are assassinated and buried in secret. Many others are charged with trumped-up terrorism charges."[12] According to the UN Human Rights Council, "secret detention amounts to an enforced disappearance."[13]

We call on:

- the Iraqi authorities to undertake genuine actions to ensure the implementation of its international obligations under both international humanitarian law and human rights law;
- the Working Group on Arbitrary Detention, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions and the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to visit Iraq and fully investigate all cases of arbitrary detention, torture and ill treatment;
- the UN and the Human Rights Council to ensure that all human rights violations in committed in Iraq during the sanction, and since the 2003 invasion and occupation to be investigated by an international independent body;
- The reinstatement of the position of a Special Rapporteur for Iraq.

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is vital for stability in a post-war scenario – ICRC". James Kilner, AlertNet London, November 2009 at: http://www.reliefweb.int/rw/rwb.nsf/db900SID/MUMA-7XS4PY?OpenDocument

[11] "*Enforced Disappearance: The Missing Persons of Iraq*", Dirk Adriaensens at: http://www.globalresearch.ca/enforced-disappearance-the-missing-persons-of-iraq/22164

[12] "*Iraq: Enforced disappearances – "a long-term challenge"* at http://www.irinnews.org/report/91622/iraq-enforced-disappearances-a-long-term-challenge

[13] In addition, "secret detention effectively takes detainees outside the legal framework and renders safeguards contained in international instruments meaningless, including, importantly, that of *habeas corpus*". See: Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism, UN Document A/HRC/13/42, May 2010.

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Human Rights Council
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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by the Union of Arab Jurists, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2015]

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Please recycle

The Human Rights situation in Iraq

Introductory:

In June 2014, the global community has, once again, redirected its attention towards Iraq and its appalling humanitarian situation. It is abhorrent, to say the least, that much of which that demanded the attention of the international community prior to this were left largely ignored. It was not until the sudden and abrupt rise of the Islamic State of Iraq and Syria known as (ISIS), along with their powerful takeovers of cities such Mosul, Tikrit, Tal Afar and Baiji, that the international community slowly began to pay heed to the desperate calls of innocent Iraqi civilians. In response to the situation, the United States of America initiated another string of military intervention by conducting airstrikes against targets they claimed to belong to (ISIS), while other European states are granting humanitarian aid to besieged Iraqis and promised to provide weapons to the beshmarga Kurdish forces.

On 1st September, 2014, for the first time since the US-invasion in 2003, the United Nations Human Rights Council held its 22nd Special Session under the title "The Human rights situation in Iraq in the light of abuses committed by the so called Islamic State in Iraq and the Levant and associated groups". At the end of the session, the Human Rights Council adopted resolution S-22/1 requests the UN Office of the High Commissioner for Human rights to dispatch an investigation mission to Iraq. The report of the Mission is due at the 28th session in March 2015.

The Human Rights Situation:

The human rights situation in Iraq has deteriorated since early January 2014. During this period, the government responded brutally against Iraqi demonstrators who protested against the Iraqi government due to their corrupted and sectarian-led policies. Many, including innocent women and children, were indiscriminately killed, bombed and shelled. Since then the death toll of civilians increased, the destruction of cities escalated, and consequently this led to the displacement of more than 1500,000 Iraqis.

The crisis worsened further in June, when ISIS attacked the northern part of Iraq, and took over several cities by expelling governmental forces and seizing their weapons and armory. According to the UN mission in Iraq, by February 2015there are almost 2.2 million Iraqi IDPs caused by the violence. Serious violations by ISIS have included abductions and mass executions, persecution of Iraq's ethnic and religious communities.

Throughout these escalations, the government forces have committed serious abuses, including sectarian mass executions of prisoners, kidnappings and summary executions by security forces and government-backed sectarian militias as well as indiscriminate airstrikes on several civilian neighborhoods. Furthermore, in June the government issued new media guidelines that violate its obligation to protect free expression. Both ISIS and government-aligned militias are using children under 18 in their forces.

Security declined as sectarian tensions deepened. Certain sects of civilians throughout Baghdad, Diyala, and Hilla provinces have been kidnapped and killed by government backed militias over the past six months. The government backed militias were identified by witnesses as Asa'ib Ahl al-Haqq (League of the Righteous). They are active in villages and towns around Baghdad known as "Baghdad Belt". This escalation of sectarian violence is parallel to the armed confrontations between government forces and insurgents in northern Iraq.

Background of the situation:

The sectarian tensions and grave violations we are witnessing today did not begin merely with the rise of ISIS in June 2014. In fact, it dates back to 2003. The situation today, in many ways, stems as a direct result of the Anglo-American invasion of Iraq in 2003; which implanted the seed of successive sectarian governments that led to Iraq's current crisis. However, the attempt today to make it look as if the onslaught of militant fighters on Baghdad, and the sectarian wars being waged amongst Iraqis, must be decried and halted as they are not, and should not, be the main crises that the international community needs to lay focus on.

For a long time, the international community has remained silent towards human rights violations in Iraq, as no forms of protest were made despite there being some of the most extreme and blatant violations of such laws. When the American occupiers dismantled the Iraqi judiciary system and military forces in 2003, the entire country fell into a disastrous societal vacuum that enabled the chaotic, anarchical situation we are witnessing today. Not an ounce of protests were made against these gross and outlandish violations, including the indiscriminate bombings, shelling and killings of innocent civilians; all of which that have resulted in about two million deaths ever since the invasion and occupation happened.

This bloody background, particularly during the years of American occupation, paved an environment that is ripe for extreme forms of human rights violations to be committed with impunity; a legacy that remained with Iraq's successive "allegedly democratic" governments.

Moreover, the world has also turned a blind eye towards the plight of the Iraqi people when they began to exercise their legitimate right as stipulated under the UN Charter in resisting the invasion and foreign occupation of their homeland.

Furthermore, the desperate calls of millions of Iraqi people who took their protests to the streets from the beginning of 2011 onwards and throughout 2013, demanding an end to the sectarian policies of the government were also ignored.

As the American occupiers utilized the "sectarian divide" to break-up the resistance during the occupation, successive governments have prolonged that legacy to keep the country divided in their plight to retain power. Today the sectarian crisis has reached a stage where no single, standalone government can resolve on its own; it requires the assistance, aid and help from hundreds of experts from around the world and the moral support of the international community to help rebuild Iraq.

The solution as per the international community perception:

Military interventions to eliminate ISIS and the changing of the previous government are the solutions that the international community proposed and aimed for as a remedy to this crisis. But apparently these internationally adopted proposals are not solely adequate to achieve peace and stability for the Iraqi population. These solutions are still based on misinterpretations of the internal crisis and biased political interests.

Nevertheless, replacing the current political system as a whole which embraces the sectarian ideology on constitutional basis is to be considered a first righteous step towards stability and a better Iraqi future liberated from that corrupted regime.

Furthermore supporting the current governments in power and providing them with arms and weapons risks complicating the situation further, as these weapons are used indiscriminately against civilians and insurgents by the governmental forces. This will result in further human rights violations and societal frustration. Therefore arms and weaponry contracts to the current government must be halted to save civilian lives. Such weapons embargo could be used as a tool to force the government to respect the international humanitarian and human rights laws, to endure its responsibility of protecting the Iraqi civilians.

The Solution to the dilemma:

The main issue in Iraq that the international community should focus on is the establishing and installing of a sustainable form of governance; one that is capable of being independent, democratic and fair to all Iraqis. Albeit that this solution remains extremely difficult to achieve in the current time and would take several years to implement, nevertheless it is the only way for Iraq to be unified and progressive. This issue was ignored by the invaders, occupiers and the rest of the international community prior to their rush into war in 2003, which has dismantled any real potential of realizing sustainable regional stability.

It is therefore a gravely miscalculated error to assume that a foreign invasion could have helped Iraq achieve an externally imposed, fully-fledged democracy.

The "imposed" democracy brought to the Iraqi people resulted in nothing more than mass human rights violations, entrenched corruption, and the total collapse of basic services, facilities and amenities.

We call on:

- the Iraqi authorities to undertake genuine actions to ensure the implementation of its international obligations under both international humanitarian law and human rights law;
- the Working Group on Arbitrary Detention, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions and the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to visit Iraq and fully investigate all cases of arbitrary detention, torture and ill treatment;
- the UN and the Human Rights Council to ensure that all human rights violations in committed in Iraq during the sanction, and since the 2003 invasion and occupation to be investigated by an international independent body;
- The reinstatement of the position of a Special Rapporteur for Iraq.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Union of Arab Jurists, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2015]

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Please recycle

The Situation of Iraqi women during war and occupation

Women's rights have always been violated during armed conflict in different ways. Whilst conflicts inflict suffering on everyone, women are particularly affected by its short- and long-term effects. In general they face many challenges in conflict and post-conflict environments – including extreme poverty, displacement from their homes, destruction of social networks, and limited opportunities for employment and income generation.

This report is examining some negative effects of the war and occupation on Iraqi women and their fundamental rights.

Iraqi women before the war and occupation

Since Iraq's independence, women gained important access not only to education, but also health care, employment, political positions and in the economic sphere. Furthermore, women in Iraq made important advances with regards to family rights, the right to serve in the government and their active involvement in political life. During the seventies and eighties of the last century, women's rights in Iraq were the most advanced in the region. By making education compulsory for all by law No. 118 in 1976, the Iraqi government closed the literacy gap between men and women notably and took a great step to eradicate illiteracy and empower women in the working field. The efforts were rewarded when Iraq received the UNESCO award for eradicating illiteracy in 1982. Female literacy reached 87% in 1985 which was by that time far ahead of its neighbouring countries. In 1986, Iraq ratified, as one of the first nation, the Convention on Elimination of all forms of Discrimination Against Women (CEDAW).

Since the brutal UN sanctions of 1990 and the following Gulf War in 1991, women's rights in Iraq have suffered dramatically. Present-day Iraq is plagued by violence, corruption and injustice, transforming the situation of women into a national crisis.

Women after war and occupation

By dissolving the Iraqi army, police and security units in 2003, the US administration created a security vacuum that resulted in chaos and disorder throughout Iraq. This constructed an environment for criminal groups to move freely and target Iraqi women. However also US forces committed numerous violations against Iraqi women. They were detained, tortured and raped. In most cases it was to use them to pressure their husbands, sons and other relatives to cooperate with the US forces during interrogations.

The lack of responsibility taken on by the occupying powers towards these violations paved the way for more abuses and for to the successive Iraqi governments to continue in the same irresponsible way.

Impunity and security

Government forces have targeted women and girls and intimidated them through physical violence, sexual harassment or rape. Several NGOs documented a wave of sexual violence and abductions against women in Baghdad following the invasion.[1] Sexual assaults and violence against Iraqi women by US forces were visible in Iraq. Accusations were made against the invading armies of abuses and rapes. Many women were taken hostage, tortured, and sexually abused.[2]

[1] Human Rights Watch (2003) http://www.hrw.org/reports/2003/07/15/climate-fear-0

[2] Global Research (2005) available at http://www.globalresearch.ca/iraqi-women-under-us-occupation/158 One of the most famous crimes in this regard are the Mahmudiya killings, the gang rape and murder of a 14 year old girl by US soldiers in Iraq in March 2006. Militia forces have also been repeatedly accused of rape and sexual abuses, using the environment created by the war.

Insecurity and lack of accountability severely restrict women's personal mobility and consequently their involvement in public life. The continuous deterioration of the justice, police and security system and the immense corruption of the Iraqi government after the invasion led to an absence of women from the streets or obliging them to wear the veil because of the control exercised by armed and extremist groups in several areas.[3] Fear of rape and abduction keeps women in their homes, out of schools and away from work.[4]

Women in public sphere

According to several Iraqi researchers, the unemployment rate of Iraqi women after the war increased drastically. An Iraqi University professor showed in her survey that at least 85% of educated women are unemployed due to the lack of safe working places provided by the government.[5] The majority of women lost their jobs after the invasion and change in government. The majority of women lost their jobs after the invasion and change in government. Before the invasion, women formed more than 40% of total workers in the public sector however as a consequence of the lack of security in public sphere and the increase in harassment and discrimination of women by police, soldiers and officials as mentioned above, forced women to give up their workplace.

Displaced women in Iraq

Around 4,5 million Iraqis have been displaced inside Iraq since 2003, which is the largest number of displacements in the region since 1948.[6] About 83 percent of this number is made up of women and children. 55% of Iraqi women are displaced and 55% have been subjected to violence.[7] They face strong social stigmas, are highly discriminated and are forced to live in inhumane poor conditions. Since 2003, about 33% of displaced widowed women have not received any humanitarian assistance; 76% of widows do not receive a pension and sometimes are forced to go into temporary marriage with one of the bureaucrats who distribute the funds.[8] Consequentially, the US invasion has led women and girls highly vulnerable to poverty and unemployment.

Sexual exploitation and prostitution

Many Iraqi women have lost their husbands as a result of the armed conflict, generalised violence, and displacement. The resulting financial hardship has made them vulnerable to trafficking for sexual exploitation and prostitution.[9]

As a result of the deteriorating security system driving women into unemployment, sex exploitation of Iraqi women has increased significantly and seems to be the only possibility for many women today to finance their and their children's lives. According to the US' Trafficking in Person Report for 2010 by the Department of State, Iraq is now considered one of "the worst countries" in the world regarding prostitution and sexual exploitation.[10] These are horrifying facts

[3] CEDAW country report Iraq (2014). Available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2flRQ%2f4-6&Lang=en .

[4] Human Rights Watch (2014). Available at http://www.hrw.org/sites/default/files/reports/iraq0214webwcover.pdf

[5] Before the invasion, women formed more than 40 percent of total workers in the public sector however as a consequence of augmented religious extremism, the lack of security in public sphere and the increase in harassment and discrimination of women by police, soldiers and officials forced women to give up their workplace. Dr. Yasmine Jawad (2013). Available at http://www.gicj.org/iraq_conference_speeches/Dr_Yasmin_Jawad_Presentation.pdf,

[6] Dr. Yasmine Jawad (2013). Available at http://www.gicj.org/iraq_conference_speeches/Dr_Yasmin_Jawad_Presentation.pdf

[7] Ibid

[8] Dr. Yasmine Jawad (2013). Available at http://www.gicj.org/iraq_conference_speeches/Dr_Yasmin_Jawad_Presentation.pdf

[9] Human Rights Watch (2013). Available at http://www.hrw.org/world-report/2013/country-chapters/iraq?page=2

[10] The report of the U.S. State on trafficking of human beings (2010). Available at http://www.state.gov/documents/organization/142979.pdf

presented by the US, which leaves questions of what steps has the invading power taken to ensure punishment and accountability. Women are lured into forced sexual exploitation through false promises of work[11].

Women in Iraqi prisons and detention facilities

The annual report[12] of the Iraqi Ministry of Human Rights on the situation of prisons and detention centres in Iraq in 2012 indicates that there is a large over-crowding in prisons above its capacity. The same report indicates the cases of allegations of torture and exposure to threats and rape. Sexual abuse as a method of torture against female prisoners is not confined to the notorious Abu Ghraib prison.[13]

In its most recent report of February 2014, Human Rights Watch[14] found that women have been repeatedly subject to rape and sexual assault in Iraqi detention centres. Former detainees reported that their clothing was removed and they were deprived of food and water for days. Additionally, the detention facilities are generally run by men which leaves female detainees vulnerable with regard to their private sphere and increases the risk of sexual harassment and abuses. [15]

Women detained since the end of 2012 told NGOs on the ground that security forces arrested them without showing an arrest warrant, interrogated them about male family members without accusing the women of any crime, and demanded bribes for their release.[16] The majority of women are used as a pressuring tool for their husbands, fathers, brothers or sons.[17] Security forces questioned them about their male relatives' activities rather than their own accused crimes and furthermore forced them to sign statements which they were not allowed to read.[18]

One of the main demands during the peaceful mass demonstrations in December 2012 were to set women prisoners free who are subject to abuses and mistreatment inside Iraqi prisons and detention facilities, after the allegations arose that female prisoners are being raped and sexually abused by guards and security forces.

The central concern

The core reason which continuously reinforces the abuse and discrimination of women in Iraq is the corrupt and flawed judicial system which leaves perpetrators of abuses and violence against women unpunished. This circle of impunity

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[11] Shadow report to CEDAW (2014) available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/IRQ/INT_CEDAW_NGO_IRQ_16192_E.pdf
It added: Trafficking of young girls is increasingly common to escape poverty. Women are married off into permanent or temporary marriages to find a better life however very often then fall victim to sexual exploitation.

[12] Iraqi Ministry of Human Rights (2012) in Arabic available at http://www.humanrights.gov.iq/uploads/ali%20pdf/final2012.pdf

[13] Ibid

[14] See Human Rights Watch (2014) available at http://www.hrw.org/news/2014/02/06/iraq-security-forces-abusing-women-detention

[15] Shadow report to CEDAW (2014) available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/IRQ/INT_CEDAW_NGO_IRQ_16192_E.pdf

[16] Human Rights Watch (2014). Available at http://www.hrw.org/sites/default/files/reports/iraq0214webwcover.pdf

[17] Many of these women described were being beaten, kicked, slapped, hung upside-down and beaten on their feet, given electric shocks, and raped or threatened with sexual assault by security forces during their interrogations. Human Rights Watch (2014) available at http://www.hrw.org/news/2014/02/06/iraq-security-forces-abusing-women-detention

[18] Ibid, it added that: he Iraqi criminal justice system tortures women into confessions, using horrendous measures including rape in front of their relatives and children. When finally charged and sentenced, the women are additionally abused, tortured and raped inside the detention facilities. The main issue at hand here is the huge failure by the courts to investigate allegations of abuse and hold the abusers responsible and accountable which encourages police and security forces to falsify confessions and continue the use torture and sexual assault.

and corruption is further abused by the male police force, security forces, prison guards and even judges who use confessions retrieved under torture to sentence the female accused. The deteriorated safety of public life is a further reason why women's rights have worsened horrifyingly.

Furthermore, the destruction of the whole health and education system during the US invasion and occupation left women highly vulnerable to life after the war. The death of many male heads of households as the main breadwinners furthermore pushed women into poverty and prostitution, as explained above.

Women's rights are nothing more than mere words introduced by the US and British occupying forces while the reality of Iraqi women live lives of fear and violence after the invasion.

The NGOs signatories to this statement call on the:

- the Special Rapporteur for Violence Against Women to focus in her reports on the cause and consequences of the situation of Iraqi women and investigate all human rights violations and violence against women committed since 2003
- The Human Rights Council to appoint a UN Special Rapporteur for the human rights situation in Iraq
- To ensure that all human rights violations in Iraq during the sanctions and the invasion and occupation are investigated by an international independent body and that perpetrators are held accountable

United Nations A/HRC/28/NGO/150

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Human Rights Council
Twenty-eighth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by International Movement ATD Fourth World, Mouvement Mondial des Mères International, New Humanity, non-governmental organizations in general consultative status, Associazione Comunita Papa Giovanni XXIII, Association Graines de Paix, BADIL Resource Center for Palestinian Residency and Refugee Rights, Company of the Daughters of Charity of St. Vincent de Paul, Congregation of Our Lady of Charity of the Good Shepherd, Edmund Rice International Limited, Femmes Afrique Solidarité, Foundation for GAIA, International Association of Charities, International Confederation of the Society of St. Vincent de Paul, International Federation of Family Associations of Missing Persons from Armed Conflicts, International Movement Against All Forms of Discrimination and Racism (IMADR), International Organization for the Elimination of All Forms of Racial Discrimination, International Volunteerism Organization for Women, Education and Development - VIDES, Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco, Nonviolent Peaceforce, Pax Christi International, International Catholic Peace Movement, Planetary Association for Clean Energy, Inc.,

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03821 (E)

1503821

Please recycle

The, Women's International League for Peace and Freedom, World for World Organization, non-governmental organizations in special consultative status, International Society for Human Rights, non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

A victims approach for the declaration on Right to Peace

Associazione Comunità Papa Giovanni XXIII (APG23) and the co-signing NGOs realize that the process on the Declaration of Right to Peace will reach its end at the next session of the Intergovernmental Working Group that will be held in April 2015.

In this regard, our NGOs appeal to the Human Rights Council to declare the Right to Peace, to strongly condemn war and the use of violence to solve disputes and conflicts and to reiterate the inalienable right to live in a world where war and conflicts are progressively eliminated through the promotion of mutual understanding, tolerance, development, respect of human rights and peaceful relationships.

During wars and armed conflicts, gross and systematic violation of all human rights and fundamental freedoms occur, including inter alia, extrajudicial killings, forced displacement, summary execution, sexual violence, looting, abduction, large-scale of arrest, forced recruitment of children, disappearance, beating, torture, arbitrary detention, forced labour practices or lack of fundamental economics right (i.e. water, food, medicines). In particular, the right to life and security of people and their fundamental dignity is always under threat, even violated. Women and children especially, are the most vulnerable among the victims of such a context.

Moreover, even in absence of war and conflicts, millions of people in the world suffer the consequences of increased inequities between and within countries, of poverty and violations of economic, social, cultural rights as well as civil and political rights. They are victims of a structural war rooted in injustice, in unregulated finance, in a wrong development and economic model that favour few at the expenses of many others.

Nowadays, the international community has the legal resources to progressively eliminate war and armed conflicts all over the earth through the respect of international law, the promotion of the culture of peace and friendship among all peoples and nations. The United Nations should again declare that war is unlawful from a legal perspective, as well as totally incompatible with peace and a clear abuse of humans rights, and in particular the right to life.

As members of civil society we have the duty to bring to the attention of Member States and other stakeholders the voice of the people of the world who are victims of armed conflict, direct, structural and cultural violence, and whose human rights must be respected and protected.

It is necessary to recognize that peace is not only the absence of war, but also a positive process that is intrinsically linked to development and economic/social justice. In this regard, there are three important and mutual reinforcing pillars to be planted: a just economy oriented to the common good, prevention and solution of conflicts with nonviolent means and education and formation to human rights and peace.

Peace is a precondition of the respect of all human rights, including the right to development, and the violation of any human right is a threat to peace. We insist on the need as a human family to declare the human right to peace.

We strongly endorse Article 1 of the 1978 Declaration on the Preparation of Societies for Life in Peace, adopted in the General Assembly with no votes against, which states, "*Every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace. Respect for that right, as well as for the other human rights, is in the common interest of all mankind and an indispensable condition of advancement of all nations, large and small, in all fields.*"

We expect the new draft text of the declaration on Right to Peace that will be submitted by the Chair of the Open Ended Working Group at its third session, to be stronger, relevant and with a significant impact on the lives of the people who suffer most the consequences of wars and conflicts.

We expect also Member States and individuals to take responsibility and make the declaration not just a step, but also a quantum leap forward.

We appeal to all Member States to show the political will to prioritize the protection of human rights, including the human right to peace of all humanity and to reach the consensus on a declaration that can give real hope to the persons and peoples of the world, a hope that only peace can guarantee.

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*Arab Commission of Jurist; International Federation for Peace and Conciliation; Foundation for DIalogue among Civilizations (FDC); APRED, participative institute for the progress of peace; JALISA Japan Lawyers International Solidarity Association; Tamkeen; Association Dženo-Spiš; NGOs without consultative status, also share the views expressed in this statement.

United Nations A/HRC/28/NGO/151

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Human Rights Council
Twenty-eighth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Women's Human Rights International Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03800 (E)
1503800

Please recycle

Requirements for safety and security of camp Liberty residents

Six month after the formation of the new government in Iraq (GoI), the situation of the asylum seekers members of the Iranian opposition, residing in Camp Liberty in Iraq, remains vulnerable. Those responsible for the massacres of residents remain to be responsible for the Camp and its affairs. Restrictions on timely access to medical services has continued unabatedly, which has resulted to more residents unduly losing their lives. UNAMI has also failed to address or even report the suffering of the residents.

We are, therefore, call on the UN Secretary General and all member states to take all necessary measures to implement the following Requirements for safety and security of Liberty residents until resettlement outside Iraq:

1. Recognition of Camp Liberty as a refugee camp under the supervision of UNHCR and recognition of residents' status as refugees and protected persons under the Fourth Geneva Convention.

2. Annulment of all oppressive decisions by the former PM Al-Maliki Government taken against the residents of Ashraf and Liberty, and the referral of Liberty's dossier to agencies and individuals in the Government of Iraq not acting on the order of the Iranian regime or its affiliated groups.

3. Guaranteeing the safety and security of the residents by the United States, which according to the quadripartite agreement of 16 August 2012 "Commit[s] to support safety and security of the residents until the last of the residents leaves Iraq," including provision of security and protection requirements to the camp against ground and missile attacks such as returning the T-walls, protective helmets and vests as well as medical equipment.

4. Termination of the prison conditions in Liberty, and allowing freedom of movement according to numerous UNHCR statements.

5. Transferring all armed Iraqi individuals and their weapons and equipment to the Camp's outside perimeter.

6. Complete removal of the siege on Camp Liberty and ensuring standards and requirements of normal life according to articles 1, 2, 3, 4 of Third Section of the MOU signed by the UN and the GoI on 25 December 2011 **(1).**

7. Connecting Liberty to the national power grid and sewage network at the residents' expense.

8. Providing the necessary fuel and logistics by relevant Iraqi ministries, to be sold to the residents at the rates available to Iraqi citizens, and residents' free access to the purchase of all goods and services that Iraqi citizens are allowed to procure in accordance with the agreement between Ambassador Bremer and Prime Minister Allawi, General Miller letter to the representative of the residents 25 June 2004 **(2).**

9. GoI's agreement to allow the residents to sell their moveable and immoveable property in Ashraf and Liberty, as well as permission to open a bank account to transferring the proceeds of the sale to them.

10. Releasing the seven Ashraf hostages and conducting a UN investigation into six massacres in Ashraf and Liberty, and bringing to justice the perpetrators of these crimes, especially those who ordered and carried out the September 1, 2013 massacre at Ashraf.

(1). "Third: Management of the Temporary Transit Locations

1. The transit locations meet humanitarian and human rights standards.
2. The security of those accommodated at the transit locations and of United Nations personnel carrying out their duties at or near those locations, to be ensured through officers trained for this purpose with the assistance of the United Nations.
3. Accommodation infrastructure, hygiene facilities, medical care and facilities for religious observance while taking into consideration the separation between the sexes in Camp Liberty. The Government shall allow internal and external communication in accordance with the Iraqi laws.
4. The Government shall facilitate and allow the residents, at their own expense, to enter into bilateral contact with contractors for provision of life support and utilities such as water, food, communications, sanitation, and maintenance and rehabilitation equipment. The Government shall allow residents to move their individual movable assets from Camp New Iraq into Camp Liberty. The Government of the Republic of Iraq shall allow the entry of an adequate number of vehicles for transportation within the camp.

(2). "Prime Minister Allawi of the Interim Iraqi Government (IIG) has given Ambassador Bremer, of the Coalition Provisional
Authority, his assurances that the provision of essential services to the individuals living at Camp Ashraf will continue after sovereignty is transferred on 30 June, 2004. These services will be commensurate with the level of service at the quantities and prices as those received by Iraqi citizens living in Diyala' Province and will remain in effect until the final disposition of the individuals living at Camp Ashraf is determined. Prime Minister Allawi said that the IIG would agree to allow the MeK to purchase commodities and services including oil/fuel, electricity, commerce, agriculture, and health..."

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Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

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Please recycle

The UN Human Rights Council must prioritize the situation of persons arbitrary detained, abducted and disappeared in Syria

As the crisis in Syria enters its fifth year, the human rights situation in the country remains disastrous. War crimes and crimes against humanity are rife and civilians are bearing the brunt of the conflict. Despite various UN Security Council resolutions on the situation in the Syrian Arab Republic, there is no end in sight to the deliberate infliction of suffering on the civilian population. Amnesty International values the ongoing work of the Independent International Commission of Inquiry established by the Human Rights Council and the UN Secretary-General's Special Envoy for Syria, Staffan de Mistura, in particular in the context of the latest efforts to relieve the situation of bombarded and besieged civilians in the Aleppo area.

Nevertheless, the organization encourages the Commission of Inquiry and the Special Envoy to do whatever they can to improve the situation of those persons in Syria who are arbitrarily detained, abducted and disappeared. Their situation is particularly acute and should be addressed with the utmost urgency as an ongoing human rights violation. Space for civil society has been stifled through the arbitrary detention, abduction and disappearance of human rights defenders, peaceful political activists, journalists and media workers and medical and humanitarian staff, detained solely as a result of the legitimate exercise of their human rights. It is essential to begin to rebuild civil society space in Syria if there is to be a just and durable solution to the conflict.

Since the beginning of the crisis, thousands of people suspected of being opponents of the current government have been arbitrarily detained by the Syrian authorities. Many have been subjected to enforced disappearance, including Khalil Ma'touq, a human rights lawyer and director of the Syrian Centre for Legal Studies and Research, who has been disappeared since October 2012.

Research undertaken over many years by Amnesty International has demonstrated how torture and other ill-treatment was widespread even before the crisis, and has since become rife in the various detention facilities run by Syrian security forces. This includes routine beatings, often using objects such as metal bars or the butt of a gun against detainees in stress positions, electric shocks, sexual violence, exposure to extreme cold and denial of medical treatment. The organization concluded in March 2012 that the torture carried out by the Syrian authorities amounts to crimes against humanity. One detainee told Amnesty International: "Those who torture are professionals who know how to keep their victim alive. It's not difficult to imagine how many they killed to gain that experience." Amnesty International's findings in this regard have been echoed by the Independent International Commission of Inquiry, which has also documented the widespread and systematic use of torture in multiple government detention facilities.

Reports from former detainees interviewed by Amnesty International further indicate catastrophic detention conditions across the various detention facilities operated by government security forces. These conditions include inadequate food, clean drinking water and sanitation; overcrowding, causing the spread of skin and other diseases; and the complete absence of or very limited access to medical care. One former detainee told Amnesty International, for example, that out of lack of drinking water, prisoners resorted to drinking from the toilet, which led to diarrhoea and subsequent dehydration. Such detention conditions reportedly contribute to a large number of deaths in custody.

Many of the detainees who eventually reappear, often many months after their arrest and thus beyond the limits of pre-trial detention time under Syrian law, are subjected to grossly unfair trials, including through Military Field Courts and the Anti-Terrorism Court. Amnesty International considers both courts to be inherently unfair in their proceedings. Military Field Courts are presided over by military judges, do not allow for defendants to have legal representation, and their verdicts are not subject to appeal. They are authorized to issue severe sentences, including the death penalty. The Anti-Terrorism Court applies an overly broad definition of terrorism and is not required to comply with the requirements provided for in existing legislation for criminal trials and prosecutorial procedure. Judges of the Anti-Terrorism Court are military officers and there is no judicial appeal oversight.

Human rights defenders Hani al-Zitani, Hussein Gharir and Mazen Darwish, all working for the Syrian Centre for Media and Freedom of Expression, have been on trial before the Anti-Terrorism Court since February 2013, solely as the result of their work of documenting and monitoring human rights violations in Syria and despite a call by the UN General Assembly in June 2013[1] for their release, echoed by the UN Working Group on Arbitrary Detention in April 2014[2].

Non-state armed groups are also targeting civilians, including human rights defenders, peaceful political activists, journalists, media workers, and medical and humanitarian staff. They have abducted and held some of them hostage. One of these peaceful activists is Razan Zeitouneh, another human rights lawyer, who together with three of her colleagues was abducted in Duma, in the besieged Eastern Ghouta area under the control of various armed opposition groups, including Jaysh al-Islam, in December 2013. They are still missing.

Amnesty International's research confirms that persons detained by armed groups are also held in poor detention conditions and routinely subjected to torture and other ill-treatment. The organization has received numerous reports of torture and beatings, including with instruments of torture. These violations have been committed by the armed group calling itself the Islamic State (IS) and, to a lesser extent, by armed groups affiliated with the Free Syrian Army. The Independent International Commission of Inquiry has reported similar findings. Former detainees who spoke to Amnesty International have reported witnessing summary killings of other detainees, sometimes after what appeared to be a "sentencing" by what the armed group in question considered a Shari'a court.

IS in particular has been committing war crimes on a mass scale, including the summary killing of hostages and other abductees. Former detainees have told Amnesty International of torture and inhuman detention conditions. Detainees generally did not know where they were held and frequently witnessed others being flogged, beaten, subjected to electric shocks and forced into stress positions for prolonged periods of time. Those beaten have included children. A 15-year-old student abducted from the border town of Kobani for example told Amnesty International after his release: "I tried to escape, and was caught with three other boys. They hung me from the ceiling from my wrists for around half an hour. Then they beat us in front of everyone; there were three of them beating the three of us. They used their hands, legs and hosepipes. I was then taken downstairs and given electric shocks. They attached tongs to my fingers and turned the electricity on five times." Amnesty International notes that the Independent International Commission of Inquiry published similar findings in its November 2014 report. IS has also targeted human rights defenders, such as the lawyer Abdullah al-Khalil, who is believed to have been abducted by the group in May 2013.

The violations and abuses described in this statement, some of which amount to war crimes and crimes against humanity, continue over one year after the adoption of UN Security Council Resolution 2139, which called on all parties to "desist from all violations of international humanitarian law and violations and abuses of human rights" and demanded an end to the practices of arbitrary detention, torture, abductions and enforced disappearances. The Human Rights Council must look for additional ways to contribute to putting an end to these gross and systematic violations.

Amnesty International urges the Human Rights Council, its members and observer states to:

1) Call on all parties to the conflict to immediately and unconditionally release all persons who have been arbitrarily detained, abducted or subjected to enforced disappearance as a result of the exercise of their human rights or other peaceful political, media and medical activities.

2) Demand that the Syrian authorities bring recognizable criminal charges against any persons in their custody or release them. Those charged must be promptly referred to trials that comply with international fair trial standards. The

[1] UN General Assembly Resolution 67/262 of 4 June 2013.
[2] Mazen Darwish et al. v. Syrian Arab Republic, Working Group on Arbitrary Detention, Opinion No. 43/2013, UN Doc. A/HRC/WGAD/2013/43 (2014).

Syrian authorities must refrain from trying civilians before military courts and no one should be tried by courts that are inherently unfair, such as Military Field Courts or the Anti-Terrorism Court.

3) Call on all parties to the conflict to ensure that all persons detained are protected from torture and other ill-treatment, are provided with access to their families and medical support and are held in conditions in compliance with the Standard Minimum Rules for the Treatment of Prisoners. Persons detained by the government must also have access to their lawyers.

4) Demand that all parties to the conflict immediately reveal the whereabouts of all persons held and provide unhindered access for recognized international detention monitors, including the Independent International Commission of Inquiry, to all detention facilities, official and unofficial.

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Human Rights Council
Twenty-eighth session
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

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Please recycle

Algeria must uphold the highest human rights standards and cooperate with the Human Rights Council

As a member of the UN Human Rights Council, Algeria has pledged to cooperate with regional and international human rights bodies and experts and to continue efforts to cooperate with civil society organizations.[1] Algeria joined the Human Rights Council in January 2014, yet UN human rights experts and international human rights nongovernmental organizations are still denied access to the country. It remains the only country in the Maghreb that generally restricts access of human rights organizations to its territory.

The Algerian authorities have not agreed to visits by many UN human rights experts, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of human rights while countering terrorism, and the Special Rapporteur on the rights to freedom of peaceful assembly and of association, despite their repeated requests.[2] Algeria has agreed in principle to a visit by the Working Group on Enforced or Involuntary Disappearances but has not actually allowed the Working Group to visit. Algeria as a member of the Human Rights Council is required to fully cooperate with the Council, including its Special Procedures.[3]

Likewise, Amnesty International has not been allowed to visit Algeria for fact-finding purposes since 2005. Algeria should uphold the values of the United Nations Human Rights Council by allowing international human rights nongovernmental organizations to visit the country.

In addition, Algerian authorities have violated in many ways the right to freedom of association and related human rights standards including, but not limited to, the Declaration on Human Rights Defenders, by preventing Algerian human rights organizations from operating freely. As a member of the Human Rights Council, Algeria is expected to "uphold the highest standards in the promotion and protection of human rights" under UN General Assembly Resolution 60/251. The highly restrictive new law on associations adopted by Algeria in 2012 is not consistent with that obligation.

Law No. 12-06 forbids associations from receiving any foreign funding or cooperating with or seeking membership in foreign organizations without the government's agreement.[4] The law also requires all associations already registered under the previous law to submit organizational bylaws that comply with law No. 12-06 by 15 January 2014. All existing associations not successfully registered under the new law can be considered illegal by the authorities, which thereby exposes their members to penalties of up to 6 months in prison and a 300,000 Algerian dinar (€2,800/ US$3,800) fine.

Amnesty International urges the Human Rights Council, its members and observer states to call on the Algerian authorities to:

[1] A/68/153 of 17 July 2013, paras.
[2] http://www.ohchr.org/EN/HRBodies/SP/Pages/countryvisitsa-e.aspx. Viewed on 4 September 2014
[3] General Assembly resolution A/RES/60/251, operative paragraph 9.
[4] http://www.joradp.dz/FTP/JO-FRANCAIS/2012/F2012002.pdf. Viewed on 4 September 2014

- cooperate fully with the Human Rights Council, including its Special Procedures, in particular by promptly facilitating their requests to visit, by issuing and honoring a standing invitation to the Special Procedures,[5] and by acting promptly on the Special Procedures' recommendations and communications;
- repeal those articles of Law No. 12-06 on associations that violate freedom of association and prevent Algerian organizations from cooperating with and belonging to organizations based in other countries;
- ensure in all circumstances that human rights defenders and all activists in Algeria can fully exercise their rights to freedom of expression, association and peaceful assembly without fear of harassment or interference; and
- allow visits to Algeria by representatives of international human rights organizations, including through granting the necessary visas.

[5] For information about a standing invitation see: http://www.ohchr.org/EN/HRBodies/SP/Pages/Invitations.aspx. Viewed on 4 September 2014

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Human Rights Council
Twenty-eighth session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

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1503776

Please recycle

The HRC should support effective prevention of use of the death penalty against persons with mental or intellectual disabilities

On10 October 2014 Amnesty International, together with other members of the World Coalition Against the Death Penalty, will mark the 12th World Day Against the Death Penalty. This year the abolitionist movement has chosen to highlight the use of capital punishment against persons with mental or intellectual disabilities.

International standards on the use of capital punishment clearly state that the death penalty should not be imposed on people with mental or intellectual disabilities. This prohibition was most recently restated by the United Nations Secretary-General in his 2014 report to 27th session of the Human Rights Council on the question of the death penalty.[1]

The issue was first raised 30 years ago by the UN Economic and Social Council (ECOSOC) in its Safeguards guaranteeing protection of the rights of those facing the death penalty,[2] which stated that "the death sentence shall not be carried out on [...] persons who have become insane." The standard was elaborated further in 1989, when ECOSOC recommended that UN Member States eliminate the death penalty "for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution",[3] and through the subsequent work of other UN bodies and mechanisms, including the former UN Commission on Human Rights, which in its resolution 2005/59 urged States not to impose capital punishment on or execute "a person suffering from any mental or intellectual disabilities".[4]

The restriction, however, is not yet fully reflected in the laws and practices of States that still retain the death penalty in their legislation. While there has been some recognition, in laws of retentionist countries, of the fact that persons suffering from mental disabilities (also known as mental illnesses or psychosocial disability) lack mental competence to stand trial or be subjected to capital punishment, protection for those with intellectual disabilities is not codified in the laws of all UN Member States where people may be sentenced to death.

Furthermore, in the case of both mental and intellectual disabilities, national laws provide little or no guidance as to how legal restrictions are to be applied as safeguards in practice. This, together with inadequate legal representation, the mandatory imposition of the death penalty and lack of resources for independent medical assessments before and after sentencing means that – very often – persons with mental and intellectual disabilities have been exposed to the use of the death penalty, including some who have been executed.

Recent examples of the use of the death penalty against persons with mental or intellectual disabilities

In 2014 alone, Amnesty International documented the use of the death penalty against persons with mental or intellectual disabilities in several countries. The following are just some examples of how concerns about mental or intellectual disabilities of people under sentence of death are either not raised or are disregarded by the authorities authorizing the use of the death penalty in their jurisdictions.

Devender Pal Singh Bhullar has been receiving treatment at a psychiatric facility in **India** since 2010. Despite this, the President of India rejected his mercy petition in 2011 and the Supreme Court upheld his death sentence in March 2013 without adequately considering concerns around his mental health. In May 2013, a medical panel set up to assess his

[1] "Question of the death penalty-Report of the Secretary-General", A/HRC/27/23 (30 June 2014), paragraph 62.
[2] UN Economic and Social Council, Resolution 1984/50 adopted on 25 May 1984, and endorsed by the UN General Assembly in resolution 39/118, adopted without a vote on 14 December 1984, paragraph. 3.
[3] UN Economic and Social Council, Resolution 1989/64 adopted on 24 May 1989, paragraph 1(d).
[4] Operative paragraph 7 (c)

condition stated that he was suffering from a form of psychosis. Another medical panel examined Devender Pal Singh Bhullar in December 2013, and found that his symptoms of psychosis had continued, and "chances of his full recovery remain poor." It was only on 31 March this year[5] that the Indian Supreme Court commuted his death sentence, on the grounds of mental illness and delay in the disposal of his mercy petition. This ruling followed the Supreme Court's landmark judgment in January 2014, in which the court commuted the death sentences imposed on Sundar Singh and Magan Lal Barela on the ground that they suffer from mental illness.[6] While these are welcome developments, it is of grave concern that all three men had their mercy petitions rejected and were facing executions despite their mental health status.

In **Japan**, several prisoners suffering from mental illness have already been executed and others remain on death row. Hakamada Iwao, now 78 years old, was sentenced to death for murder following an unfair trial in 1968. Like most other persons on death row, Hakamada Iwao was held mainly in solitary confinement. Within months of the Supreme Court's 1980 judgment confirming his death sentence, he began to show signs of seriously disturbed thinking and behaviour. His communication with his lawyers became ineffective and his letters and verbal communication with his elder sister incoherent. His letters made absolutely no sense after August 1991, according to his sister. While he was temporarily released pending retrial in March 2014, he continues to suffer from mental illness and could go back in prison if an appeal by the prosecution against the order for retrial is successful.

In **Malaysia**, Nigerian national Osariakhi Ernest Obayangbonis[7] was due to be executed on Friday 14 March 2014 for a murder committed 18 years ago. He had been diagnosed as suffering from schizophrenia before his appeal in 2007 and has been receiving treatment for his mental illness since then. His execution was temporarily stayed only hours before the scheduled time and he currently remains detained in Kajang Prison in Selangor state.

Amnesty International highlighted[8] how Mohammad Asghar, who was sentenced to death under **Pakistan**'s blasphemy laws in 2010, was denied access to his lawyers until late January 2014. He had been diagnosed as suffering from paranoid schizophrenia and has had frequent episodes of delusions. He remains under sentence of death and is not being provided with adequate medical care. He is physically and mentally very frail.

Since the beginning of the year Amnesty International has raised concerns in relation to the cases of four men with mental or intellectual disabilities in the **United States of America**. Askari Abdullah Muhammad was executed in Florida on 7 January 2014 for a prison murder committed in 1980. He had a long history of serious mental illness, including diagnoses of paranoid schizophrenia. On 9 April Mexican national Ramiro Hernandez Llanas was executed in Texas despite evidence that his intellectual disability, as assessed in six different IQ tests over the past decade, rendered his death sentence unconstitutional. Robert Campbell had his execution stayed just two and a half hours before it was due to be carried out in Texas on 13 May to allow his lawyers to pursue an appeal based on new evidence that he has an intellectual disability that would render his execution unconstitutional.

Among the condemned prisoners currently seeking clemency from the governor of Florida, and who may face an execution date if their requests are rejected, are Frank Walls and Michael Zack. Frank Walls, who was 19 at the time of the crime, was assessed as functioning at the level of a 12-year-old and as suffering from brain damage, brain dysfunction and major psychiatric disorders. Michael Zack suffered severe physical, sexual and psychological abuse as a child and teenager. Mental health experts present at his trial testified that in their opinion he suffered from post-

[5] Amnesty International, "India: Commutation of another death sentence must spur rethink on death penalty", ASA 20/009/2014, 31 March 2014.

[6] Amnesty International, "India: Landmark Supreme Court decision upholds rights of death row prisoners", ASA 20/002/2014, 21 Jan 2014.

[7] Amnesty International, "Malaysia: Halt imminent execution of man suffering from mental illness", 13 March 2014. Osariakhi Ernest Obayangbonis was convicted under the name of Philip Michael, based on the British passport that was found on him at the time of arrest.

[8] Amnesty International, "Pakistan: Man sentenced to death under blasphemy law: Mohammad Asghar", ASA 33/002/2014, 6 February 2014.

traumatic stress disorder, chronic depression, and possible brain damage, had the mental and emotional age of a young child, and that his ability to appreciate the criminality of his conduct had been substantially impaired.

The need to strengthen international standards and provide guidance on assessments

A person should not be sentenced to death if they have mental or intellectual disabilities at the time of the commission of the crime; if they have been first affected by or diagnosed with a mental or intellectual disability after being arrested, while in detention facing trial; or after being sentenced to death, while spending time on death row. Persons with mental and intellectual disabilities are more vulnerable to the possibility of miscarriages of justice and greater protection should be afforded to them, particularly when confronting the ultimate cruel, inhuman and degrading punishment.

Pending full abolition of the death penalty, States must ensure that relevant international human rights law and standards are complied with in all death penalty cases. In order to ensure that safeguards guaranteeing the rights of persons with mental or intellectual disabilities are implemented in practice, there should be regular, independent and rigorous health assessments of those arrested, charged and detained in relation to offences punishable by death, at intervals throughout the entire criminal justice process, including after sentence.

The onus is on the authorities at all levels to ensure that the criminal justice system in their country is equipped with all the necessary technical expertise and resources to allow the strictest adherence to international standards in all capital cases. As soon as mental or intellectual disabilities are diagnosed, individuals should receive appropriate treatment, and must not be killed.

Amnesty International calls on the Human Rights Council to urgently consider this matter with a view to the provision of detailed guidance to all UN Member States on how to ensure that the death penalty is not imposed or implemented against persons with mental or intellectual disabilities.

United Nations A/HRC/28/NGO/155

General Assembly

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Human Rights Council
Twenty-eighth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1503854

Please recycle

Mexico: Adequate Medical-forensic examinations can be first step to combat torture and end impunity [1]

Amnesty International welcomes the report by the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Juan E. Méndez (henceforth the Special Rapporteur) on his visit to Mexico from 21 April to 2 May 2014.[2] This report provides a valuable assessment of the worrying situation of torture and other ill-treatment in the country.

Amnesty International documented the widespread occurrence of torture and other ill-treatment in Mexico in its report: *"Out of Control: Torture and Other Ill-Treatment in Mexico"*, published in September 2014.[3] The organization also launched a global campaign called "Stop Torture" [4] last year. This campaign identified Mexico as a high priority country because of the seriousness of torture in the country, even though the government has promised to prevent and punish torture and other ill-treatment on many occasions, with few meaningful results.

In recent years, Amnesty International has documented many cases of torture. The common denominator of these cases is that victims say they may have been tortured by a wide range of police forces, both preventive and judicial, at the three levels of government (federal, state and municipal) or by members of the armed forces. The Amnesty International report illustrates the general pattern by describing more than 20 cases, many of which involved more than one victim.

As the Special Rapporteur notes in his report, most cases of torture concern the detention of victims for their presumed involvement with organized crime (paragraph 23). These cases occur in the context of a deterioration in public security, the government's policy of fighting organized crime and the considerable increase in the number of police officers and members of the armed forces in some states since 2006.

In the cases known to Amnesty International, most victims alleged they were tortured during the first hours of detention. The use of torture presumably had the objective of extracting "confessions" or statements implicating other people in criminal activity. In most cases, the victims were eventually released without charge, but only after long periods of detention. In some cases, victims were convicted despite serious shortcomings in judicial procedures, including the lack of a full and effective investigation into allegations of torture and other ill-treatment and the continued use of evidence obtained under coercion.

As the Special Rapporteur says, torture occurs in a context of impunity in which there are very few convictions for torture. This impunity is perpetuated by structural flaws at federal and state levels (paragraph 34), such as the reluctance of public prosecution services to investigate complaints and the tendency to consider torture as a less serious offence.

The Mexican government has indicated its intention to eradicate torture and other ill-treatment in the country and has ratified various international instruments on this issue. The Special Rapporteur's recommendations provide an action plan containing measures necessary to achieve this objective. **Amnesty International therefore recommends the following steps, among others:**

Public recognition and political commitment:
President Enrique Peña Nieto as well as the most senior members of his government must recognize explicitly and publicly the seriousness of the persistent problem of torture and other forms of ill-treatment in the country, thus sending

[1] Original version in Spanish
[2] A/HRC/28/68/Add.3
[3] AI Index: AMR/41/020/2014, September 2014. http://www.amnesty.org/es/library/info/AMR41/020/2014/en
[4] http://www.amnesty.org/en/stoptorture

a clear message that these violations will not be tolerated and that all cases will be investigated and punished, where torture is found.

Legislative change

Definitions of the crime of torture and other ill-treatment in federal and state legislation are inadequate. Amnesty International has noted that the plan to reform the Federal Act to Prevent and Punish Torture mentioned by the Special Rapporteur in his report (paragraph 14) is at a standstill in the Federal Congress. The Congress might be better focusing its efforts on passing a General Act that standardizes the definition of the crime of torture throughout the country, as recommended by the Special Rapporteur (paragraph 81.a).

A General Act is applicable at federal and state levels, but first requires adjustments to the constitution and subsequent approval by a majority of state legislatures. Any legislative reform in this area must be conducted transparently and in consultation with civil society and independent experts.

Prompt, full and independent investigations

Amnesty International has noted inadequacies in the application of the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, better known as the Istanbul Protocol. The organization agrees with the Special Rapporteur's observations on this matter (paragraphs 36-41) and with his recommendations for dealing with these inadequacies (paragraph 82, subsections d, e, f). **Amnesty International also highlights the following specific considerations contained in its report,** which are based on a detailed review of procedures followed by the Federal Attorney General's Office (Procuraduría General de la República, PGR):

a) As a first step, the PGR should reform the internal bodies responsible for monitoring and supervising the application of the medical/psychological evaluations conducted when allegations of torture have been made. Despite the creation of a consultative committee and group to evaluate these procedures, both bodies are composed of PGR personnel who, contrary to international standards, do not have the independence required to monitor and supervise the work of their own colleagues. Amnesty International found no evidence that these bodies included independent experts or civil society representatives, even though this is a legal requirement. Nor is any substantive information available on the analysis by the said bodies of the application of the PGR's specialized procedure or the formulation of recommendations to forensic doctors.

b) The lack of independence and impartiality of the monitoring and supervision bodies has perpetuated serious inadequacies in the application of the Istanbul Protocol. After more than a decade since the PGR included criteria from this protocol into its own specialized procedure, it is necessary to reform both the application and monitoring and supervision mechanisms of this procedure in order to guarantee public scrutiny through the active participation of civil society and independent experts. The reform should guarantee free access by these mechanisms to the reports, methodology and impact of the reports on criminal investigations. Civil society organizations and independent specialists should be consulted and involved in this important reform.

c) The specialized medical evaluations usually base their conclusions exclusively on physical signs documented during the initial medical evaluations, which themselves present various irregularities.[5] Amnesty International has proved that in cases where medical certificates do not report physical or psychological injuries, as happens in most cases, it is highly unlikely that the forensic evaluation will report any evidence of torture. Furthermore, Amnesty International has noted that the PGR's organizational culture leads many experts to assume that the alleged victims of torture are criminals prepared to lie in order to improve their chances of challenging the criminal charges brought against them. To change these practices and encourage the impartiality of the evaluations, the PGR should ensure the independence of its forensic personnel.

[5] Initial medical evaluations are conducted on detained persons soon after being arrested when they are turned over to authorities, with the objective of determining their general health. They are usually very brief and superficial. The medical certificates from these evaluations usually omit important details that could indicate torture or other ill-treatment.

d) Officers of the public prosecutor's office, judges and other court officials often refuse to accept reports not produced by PGR officials. Independent forensic medical services are generally classified as "secondary" evidence in investigations. Although an important ruling was made by the National Supreme Court of Justice in May 2014 confirming the obligation to accept independent reports as evidence, this ruling is not binding on judges or prosecutors.

e) In addition to ensuring the independence of forensic personnel, the state should ensure adequate training for them on the contents of the Istanbul Protocol and its techniques and methodologies, and provide effective accountability for such training. One of the main failings observed by Amnesty International is the way in which many expert's reports unjustifiably conclude there was no torture on the grounds of a lack of physical and psychological injuries. This ignores the possibility that the injuries may have healed with time, especially taking into account the delay in producing reports, which can stretch to several years after the event. This situation also leads to the closure of the judicial case and the conclusion that the allegations are false.

f) Using figures provided by the PGR itself, Amnesty International has found that specialized medical-forensic evaluations are only conducted in a minority of cases where torture is alleged. In some cases, victims have said that experts dissuaded them from continuing with their complaint or had used methods that led to re-victimization.

Amnesty International urges Mexico to take decisive, rapid and effective measures to implement the Special Rapporteur's recommendations. The organization urges members and observer states of the Human Rights Council to raise concerns and recommendations about torture and other ill-treatment in Mexico in the Council debate and in bilateral discussions with the Mexican government.

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Human Rights Council
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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

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1503777

Please recycle

Accountability is the only way to prevent further war crimes in Israel and the Occupied Palestinian Territories

Six years ago, the Human Rights Council (HRC) mandated the UN Fact-Finding Mission on the Gaza Conflict (FFM) to investigate violations of international law committed in the context of the military operations in Gaza between 27 December 2008 and 18 January 2009. The FFM's September 2009 report stressed that long-standing impunity was "a key factor in the perpetuation of violence in the region and in the reoccurrence of violations." Among other recommendations, the FFM urged the Security Council to refer the situation in Gaza to the Prosecutor of the International Criminal Court (ICC) after six months if the Israeli and Palestinian authorities did not conduct independent investigations meeting international standards into the serious international humanitarian law (IHL) violations it had documented.

Some 1,400 Palestinians, the majority of them civilians, were killed during that 22-day conflict. The Israeli military opened 52 criminal investigations, but closed the vast majority without any indictments, and only four Israeli soldiers of relatively low rank were eventually charged. The Hamas administration in the Gaza Strip failed to conduct investigations into the firing of indiscriminate rockets, and did not hold anyone accountable for the abductions, unlawful killings, and torture of alleged Palestinian "collaborators". Despite the clear failure of the domestic authorities to provide justice, truth and reparation to victims on either side, the Security Council failed to act.

Since the FFM's report, there have been two additional major Gaza-Israel conflicts, in November 2012 and July-August 2014. There is a prima facie evidence that during both conflicts Israeli forces and Palestinian armed groups committed war crimes. Following both conflicts, the domestic authorities have either completely failed to investigate alleged violations or, in Israel's case, the investigations have been conducted by the Israeli military itself. Key decisions in Israel's system of military investigations, including whether to open a criminal investigation and whether to file charges, continue to rest with Israel's Military Advocate General (MAG), who is also responsible for legal advice during military operations, including all three recent Gaza/Israel conflicts. To date no one on either side has been held accountable for violations during either the 2012 or 2014 conflicts. After the November 2012 conflict, in which Israeli forces killed more than 100 Palestinian civilians, the Israeli military did not open a single criminal investigation.

The scale of destruction, death and injury wrought by Israeli forces in the Gaza Strip during the 50-day conflict in 2014 was unprecedented. According to UN figures, more than 2,250 people were killed in the Gaza Strip, including over 530 children and some 1,000 other civilians, while over 11,000 people were injured. An estimated 117,000 people were left homeless. Six months after the ceasefire, reconstruction has barely begun, due to Israel's continuing restrictions on imports and unfulfilled funding pledges. Palestinian armed groups fired thousands of indiscriminate rockets and mortars into civilian areas of Israel during the conflict; these killed six Israeli civilians, including a child, injured dozens, and damaged civilian property in Israel. Sixty-six Israeli soldiers were also killed.

During and after the 2014 conflict, the Israeli authorities consistently denied access to the Gaza Strip to independent human rights researchers, including Amnesty International and the HRC's Independent Commission of Inquiry on the 2014 Gaza Conflict (CoI). Israel's non-co-operation with the HRC and UN human rights mechanisms extends well beyond the CoI; indeed, Israel recently denied the Special Rapporteur on violence against women access to the Occupied Palestinian Territories. Amnesty International urges the HRC to insist that the Israeli and Egyptian authorities provide unimpeded access to the Gaza Strip for human rights investigators. Furthermore, the HRC must insist that Israel facilitate imports of desperately needed construction materials and completely lift its blockade of the Gaza Strip, now in its eighth devastating year. As noted in the 2009 FFM report, the blockade and the policies comprising it not only violate the Fourth Geneva Convention by collectively punishing Gaza's 1.8 million people, but could also constitute persecution, a crime against humanity.

Despite the denial of access, Amnesty International documented prima facie evidence of serious violations, including war crimes, by Israeli forces and Palestinian armed groups during the most recent conflict. Throughout the conflict, the

Israeli military attacked civilian homes in the Gaza Strip, in some cases killing entire families in their homes without warning. Intentionally directing attacks against civilians not directly participating in hostilities, or against civilian objects such as homes, is a war crime. In the last days of the conflict, Israeli aerial attacks destroyed multi-storey landmark buildings in Gaza. Although residents were warned in advance of those attacks, statements by Israeli officials indicate that they were carried out deliberately and without military necessity, which would constitute a war crime. Israeli forces also attacked ambulances, hospitals, and medical workers during the conflict, in some cases targeting them directly.

The Israeli military has announced a limited number of criminal investigations into cases from the 2014 conflict, but has not opened criminal investigations into the vast majority of cases documented by Amnesty International and other human rights organizations. An update issued by the MAG on 7 December 2014 stated that eight criminal investigations were opened into cases where the alleged violations indicated prima-facie grounds for a reasonable suspicion of misconduct, five of which were incidents of looting.

The update also stated that approximately 100 other incidents were referred to the General Staff Mechanism for Fact-Finding Assessments, established by the Israeli military to examine what it described as "exceptional incidents" during the conflict. About 50 of these cases have been referred back to the MAG for a decision. Of those, the MAG has ordered a criminal investigation into only five cases to date; most of those attacks were documented by Amnesty International, and all could be war crimes. Israel's past military investigations do not provide grounds for optimism that these criminal investigations will lead to prosecution of suspects, particularly military and civilian commanders, or that sentences imposed on any individuals convicted will correspond to the gravity of the alleged crimes.

During the July-August 2014 conflict, Palestinian armed groups fired thousands of indiscriminate rockets and mortars – which cannot be aimed accurately - into Israel. Statements by Hamas and Palestinian armed groups indicate that some of these attacks were intended to kill or injure civilians. Hamas forces also summarily killed at least 23 people in the Gaza Strip who allegedly "collaborated" with Israel. These acts must be investigated as war crimes. Amnesty International has no information that either the Palestinian national consensus government, formed under President Mahmoud Abbas in June 2014, or the Hamas authorities, who still run Palestinian governmental institutions in the Gaza Strip, have conducted credible investigations meeting international standards.

The climate of impunity in Israel and Palestine extends well beyond the armed conflict violations outlined above and perpetuates other types of systematic violations. In particular, Amnesty International would like to highlight Israel's continuing expansion of illegal settlements in the occupied West Bank, and the concomitant forced displacement of Palestinians, both of which could be examined as crimes under international law, and the increasing number of unlawful killings in the West Bank by Israeli forces.

Amnesty International welcomed Palestine's accession to the ICC and its declaration accepting the Court's jurisdiction from 13 June 2014. The organization also welcomed the Prosecutor's subsequent announcement of a preliminary examination. The HRC its members and observer states must oppose any retaliation against the Palestinian authorities for acceding to the ICC, and encourage all parties to cooperate with the ICC Prosecutor. However, Palestine's Article 12(3) declaration accepting ICC jurisdiction over crimes committed since 13 June 2014 will not allow the Prosecutor to consider crimes committed in the 2008-2009 or 2012 conflicts. Amnesty International has thus called on Palestine to reissue a declaration along the lines of its January 2009 one, which accepts the ICC's jurisdiction over crimes committed on "the territory of Palestine since 1 July 2002".

Recommendations:

The 2009 FFM recommended that the Human Rights Council request that the Secretary-General bring its report to the attention of the Security Council under Article 99 of the UN Charter, as well as formally submitting the report to the ICC Prosecutor. The HRC could still take both those actions, and should do so without further delay, as well as pressing for implementation of the FFM's other recommendations. The HRC must give the CoI's findings and recommendations serious consideration, refrain from politicizing the Commission's report, and take all appropriate measures to ensure accountability.

To this end, the HRC should submit the CoI report to the General Assembly and recommend that it transfer the report to the Security Council; request that the Secretary-General bring the report directly to the attention of the Security Council; and formally submit the report to the ICC Prosecutor. The HRC should establish a follow-up mechanism to the CoI, and insist that Israel and the Palestinian authorities cooperate with it. Finally, the HRC must ensure that all avenues towards justice for victims remain open, including by encouraging all states to fulfil their obligation to exercise universal jurisdiction over crimes under international law.

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Universal Periodic Review

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

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Please recycle

The Human Rights Council must call for the protection of human rights defenders in Gambia

Gambia will be examined under the universal periodic review (UPR) for the second time on 28 October 2014. Since its previous examination under the UPR in 2010, the human rights situation in Gambia has deteriorated. This situation, exacerbated by the failure of Gambia to implement key recommendations at the review in 2010, requires action in the Human Rights Council. Amnesty International urges the Council, its members and observer states to condemn human rights violations committed by the Gambian authorities and to call for accountability for violations in the face of mounting repression. The organisation urges particular attention to ensuring that human rights defenders, including those who have contributed to the UPR process, do not face reprisals.[1] Amnesty International encourages Council members and observers states to use the UPR to obtain substantive commitments to the improvement of the human rights situation in Gambia.

The human right situation in Gambia:

Attacks against journalists and human rights defenders

The government tightly controls the media, and the rights to freedom of expression and assembly are seriously curtailed. Human rights defenders and journalists face harassment, intimidation, arbitrary arrest and detention, torture and enforced disappearance. The President has also repeatedly criticized human rights defenders for promoting and protecting the human rights of sexual minorities.

Since 2013, Gambia has passed legislation which restricts the right to freedom of expression:

• In August 2014, the National Assembly passed the Criminal Code (amendment) Act which is being reviewed by the Presidency as of 10 September 2014. The bill which AI obtained increases the punishment for what is defined as "aggravated homosexuality" to life imprisonment. It introduces the charge "absconding state officials", which could be used to target individuals who express dissent and flee the country. It is punishable by up to 500,000 Dalasi (approx. US$12,700) and five years in prison.

• In July 2013, the National Assembly passed the Information and Communication (amendment) Act, allowing for penalties of up to 15 years' imprisonment and hefty fines for criticizing government officials online, spreading "false news" about the government or public officials, making derogatory statements against public officials, or inciting dissatisfaction or instigating violence against the government.

• In May 2013, the National Assembly passed the Criminal Code (amendment) Act, broadening the definition of various offences and imposing harsher punishments for acts of public disorder, such as "hurling abusive insults" or "singing abusive songs," and for giving false information to a public servant. The amendment criminalizes personal expression through choice of clothing, particularly for those who do not conform to dominant gender 'norms'.

In this climate of fear, most human rights defenders and journalists practice self-censorship, and many are forced into exile. Several civil society groups told Amnesty International they would not take part in the UPR process of Gambia for fear of reprisals. Groups that made UPR submissions fear reprisals.

The case of Muslim cleric and human rights defender Imam Baba Leigh illustrates measures of reprisals against those who speak out against human rights violations. Imam Baba Leigh was subjected to torture and enforced disappearance for publicly condemning the government's use of the death penalty. He was arrested on 3 December 2012 by two National Intelligence Agency (NIA) officers and taken to their headquarters for questioning. He said he was beaten for

[1] See A/RES/65/281, annex, para. 30.

several hours over ten days, including with batons, cables and whips. One night, NIA agents threw him in a hole in the ground with his hands and feet tied and poured in sand up to his chest pretending to bury him alive. Imam Baba Leigh was detained incommunicado for five months. He was released following a presidential pardon in May 2013. To date, there has been no investigation into his enforced disappearance and torture and none of the perpetrators have been brought to justice.

Arbitrary executions and death penalty

Despite accepting recommendations to move towards the abolition of the death penalty during its 2010 UPR, the government arbitrarily executed nine death row inmates by firing squad in 2012. These were the first executions in the country in nearly 30 years. No prior notification was given to the prisoners, or to their families, lawyers or consular representatives for the foreign nationals. At least three of the prisoners had not exhausted their legal appeals. The authorities did not confirm the executions until several days later. The bodies have not been returned to the families for burial.

Under the Criminal Procedural Code, the death penalty is mandatory for murder, which prevents judges from exercising their discretion to consider any extenuating circumstances of an individual case. Many courts and judicial bodies around the world, including in Africa, have ruled mandatory death sentencing as a violation of human rights.

Following the 2012 executions, the President declared a "conditional" moratorium dependant on the rise or fall of the crime rate. A review of the desirability of the death penalty in the Gambia by the National Assembly, mandated in the 1997 Constitution, is now seven years overdue.

Impunity for human rights violations and lack of cooperation with United Nations and regional human rights mechanisms

Officers of the NIA, the police force, and the military regularly commit human rights violations with impunity. The culture of impunity also protects high political authorities alleged to have ordered the arrest, detention, torture or disappearance of individuals or the execution of persons on death row.

The government has made no progress in implementing the judgements of the Economic Community of West African States (ECOWAS) Court of Justice in the cases of Gambian journalists.

• Ebrima Manneh of the Daily Observer was arrested in 2006 and in 2008 the (ECOWAS) Court of Justice ordered the government to release him from unlawful detention and pay him compensation. As of September 2014, the government and police officials continue to deny that he is in their custody.

• Musa Saidykhan alleges that he was tortured after state security agents raided *The Independent* newspaper in March 2006, shut it down and imprisoned its staff. After his release in April 2006, he fled to Senegal. In December 2010, the ECOWAS Court of Justice found that he had been "arrested, detained and tortured by the [Gambian] agents for 22 days, without any lawful excuse and without trial" and ordered the government to pay him USD 200,000 in compensation.

• Deyda Hydara, editor of *The Point* newspaper and president of the Gambia Press Union, was shot and killed in his car on 16 December 2004. No one has ever been brought to justice for his killing. On 10 June 2014, the ECOWAS Court of Justice ruled against the Gambian government for failing to conduct a diligent investigation into the killing of Deyda Hydara.

Gambia has consistently failed to implement resolutions by the African Commission on Human and Peoples' Rights, calling on the government to investigate all allegations of torture in detention and extrajudicial executions and to comply with the decisions of the ECOWAS Court of Justice.

On 6 August 2014, the authorities unilaterally postponed, without adequate explanation, the visits by the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions.

Recommendations to the members and observer states of Human Rights Council

Amnesty International urges the members and observer states of the Human Rights Council to use the UPR to:

- Support measures to prevent intimidation or reprisals by or tolerated by the Gambian government against individuals who seek to cooperate or have cooperated with the UN, its representatives and mechanisms in the field of human rights;
- Hold the Gambian authorities to account for their failure to implement recommendations accepted during the 2010 Universal Periodic Review and for the deterioration of the human rights situation since that time;
- Urge the Gambian President to request that the National Assembly reconsiders the Bill for the Criminal Code (Amendment) Act 2014 and to recommend repealing provisions that are not in line with International Human Rights law;
- Urge Gambia to repeal legislation that does not comply with international and regional human rights law and which restricts freedom of expression, in particular the Information and Communication (amendment) Act 2013 and Criminal Code (amendment) Act 2013;
- Call on Gambia to ensure that all persons, including journalists, opposition leaders, real or perceived government opponents, and human rights defenders are able to freely exercise their rights to freedom of expression, association and peaceful assembly without fear of arrest, detention, intimidation or harassment;
- Insist that the Gambian authorities investigate all allegations of torture or other ill-treatment and hold to account those suspected of these human rights violations;
- Call on Gambia to fully and effectively implement the judgments of the ECOWAS Court of Justice and the resolutions on the human rights situation in the Gambia adopted by the African Commission on Human and Peoples' Rights;
- Urge Gambia to establish an immediate moratorium on executions, with a view to abolition of the death penalty;
- Encourage Gambia to ratify, without reservations, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, International Convention for the Protection of All Persons from Enforced Disappearance (recognizing the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties), and the African Charter on Democracy, Elections and Governance.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Spain must take prompt steps to address concerns of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Amnesty International welcomes the reports of the Working Group on Enforced or Involuntary Disappearances (the Working Group) on its visit to Spain in September 2013 (A/HRC/27/49/Add.1, of 2 July 2014) and of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on his visit to Spain in January/February 2014 (A/HRC/27/56/Add.1, of 22 July 2014).

The Working Group observed, among other concerns, that the **Spanish Criminal Code** does not contain a separate offence of enforced disappearance.[1] Amnesty International has expressed the same concern with regard to the fact that the Criminal Code does not codify the crime of enforced disappearance in accordance with the requirements of the International Convention for the Protection of All Persons from Enforced Disappearance (Convention on Enforced Disappearances). The ordinary crime of illegal detention or kidnapping with whereabouts unknown, as contained in Article 166 of the Criminal Code, does not meet the requirements of the definition under the Convention.

In this regard, Amnesty International welcomes that in the draft National Report elaborated for the Universal Periodic Review, which was shared with civil society organizations in July 2014, the Spanish government states: "(…) following the recommendations made by the Working Group of Enforced Disappearances, the Committee on Enforced Disappearances and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, it is being analyzed the introduction of the enforced disappearance as a separate offence, in the reform of the Spanish Criminal Code".[2] We recommend that Spain come to its UPR examination prepared to announce the legislative changes necessary to bring the Criminal Code into line with the Convention on Enforced Disappearances.

Amnesty International also welcomes the Working Group's recommendation that Spain "act with due urgency and speed in the matter of enforced disappearances, as required by the Declaration and other international obligations. Urgency and speed are of the essence given the advanced age of many of the family members and witnesses who were the last to see persons disappeared during the Civil War and the dictatorship alive."[3] Our organization has documented and denounced that the rights to truth, justice and reparation for the victims of the Civil War and Francoism (1936-1975) are denied in Spain. It has been regularly monitoring the actions taken by Spanish courts since the National High Court declined jurisdiction in favor of regional courts in November 2008. As a result Amnesty International has found that, of the 47 cases which were filed with Spanish courts after that date, at least 38 cases have been closed (though this number may be even higher.)[4]

On 27 February 2012, the Supreme Court handed down a ruling that is inconsistent with international law on enforced disappearances. The Supreme Court ruled that crimes committed during the Civil War and Franco period should not be investigated by the Spanish courts, using arguments that Amnesty International has concluded to be in breach of international law (arguments include: statutory limitations; those allegedly responsible are presumed dead; the Amnesty Law; the Law of Historical Memory – the Supreme Court stated that "the right to know the truth does not form part of

1 A/HRC/27/49/Add.1, paragraph 13.

2 Draft National Report for the Universal Periodic Review, paragraph 10.

3 A/HRC/27/49/Add.1, paragraph 67 (a).

4 For further information see Amnesty International, Time passes, impunity remains: Universal jurisdiction universal, a tool with which victims of the Civil War and Franco eras can combat impunity, June 2013, available in Spanish at https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI/EUR4140013-25119%20El%20tiempo%20pasa%20la%20impunidad%20permanece%20Informe?CMD=VEROBJ&MLKOB=32463093939 and executive summary available in English at http://www.amnesty.ca/sites/default/files/spainaispainreportsummary17june13.pdf.

the criminal process" and is the task of other bodies, especially historians). The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, in the report on his visit to Spain stated his concerns "at the content of the Supreme Court's ruling of 27 February 2012 acquitting the incumbent of Criminal Investigation Court No. 5 for having initiated investigations into forced disappearances which had occurred during the Civil War and the dictatorship, and its decision to transfer the jurisdiction to regional courts. Despite the acquittal in this particular case, this ruling would have confirmed the tendency of judges to shelve any similar cases that come before them." [5]

The cases closed by judges subsequent to that ruling all relied specifically on it. The Supreme Court ruling therefore seems to have blocked off the last avenue for investigating these crimes in Spain, and cases continued to be closed automatically throughout the country. Amnesty International fully endorses the Working Group's recommendation that Spain must "ensure that the judiciary, and particularly the highest courts, such as the Constitutional Court and Supreme Court, make consistent use of the Declaration and other international instruments."[6]

In addition, our organization has observed that the Spanish authorities refuse to cooperate as they ought to, according to international law and the bilateral treaty,[7] with the Argentinean courts, which, since April 2010, have exercised universal jurisdiction for actions filed for crimes under international law – including enforced disappearances- committed during Francoism.[8] In this regard, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence recalled Spain's "international obligation to either extradite or judge and that the extradition of the accused can only be denied if the Spanish courts themselves initiate investigations and judge those responsible."[9]

Amnesty International shares the Working Group's assessment that the recent amendments made through a "new legislative framework [the Basic Law 1/2014], adopted after [the Working Group's] visit" restrict the scope of universal jurisdiction even more.[10] This reform limits even more the narrow possibility of investigation in Spain, under the principle of universal jurisdiction, of crimes under international law, such as enforced disappearance.[11]

The reform, by limiting Spanish courts' ability to investigate and prosecute serious crimes under international law, contravenes Spain's international obligations, including under the Convention on Enforced Disappearances and is a clear step back in the struggle against impunity by adding a further obstacle to Spanish judges' ability to investigate serious human rights violations that may have occurred outside Spain.[12]

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5 A/HRC/27/56/Add.1, of 22 July 2014 paragraph 77.

6 A/HRC/27/49/Add.1, paragraph 67(g).

7 Extradition and Mutual Legal Assistance Treaty between Argentina and Spain.

8 For further information see Amnesty International, Closed Cases, Open Wounds, available in Spanish at https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI/44110212%20Resumen%20Informe%20heridas%20abiertas?CMD=VEROBJ&MLKOB=31219680404.

9 A/HRC/27/56/Add.1, of 22 July 2014 paragraph 84.

10 A/HRC/27/49/Add.1, paragraphs 48 and 49. Said reform changes article 23.4 of the Basic Law 6/1985 of the Judiciary.

11 The requirements to open an investigation required by the reform include that the alleged perpetrator is Spanish or alien and lives in Spain; or that the victim was Spanish and the alleged perpetrator is in Spain.

12 Likewise, the reform has an impact not only on future investigations that may be opened, but is also intended to be applied to cases already opened. For further information, see "Los legisladores españoles deben rechazar la reforma propuesta que pretende cerrar la puerta a la justicia para los crímenes más graves", Amnesty International's press release , available only in Spanish at https://www.es.amnesty.org/noticias/noticias/articulo/los-legisladores-espanoles-deben-rechazar-la-reforma-propuesta-que-pretende-cerrar-la-puerta-a-la-j/.

The Working Group also expressed concerns regarding the regime of **incommunicado detention** and recommended that Spain repeal the legislation that establishes that regime.[13] In this context, Amnesty International highlights that Spain maintains incommunicado detention in its legislation for suspects of terrorism-related offences.[14] Incommunicado detention not only violates important rights of the detainees held incommunicado that are essential to ensure a fair trial – including prompt, effective access to legal representation, but facilitates torture and other ill-treatment of detainees.[15]

Amnesty International notes the additional concern expressed by the Working Group to the effect that in some cases **migrants** had been expelled from Spain without following the relevant legal procedures, which prevented a case-by-case consideration of whether the expellees might be at risk of human rights violations, including enforced disappearance.[16]

Amnesty International shares this concern. Spain has continued to prevent people fleeing from human rights violations in third countries from having access to the asylum procedures, particularly on the border with Morocco. There have been collective and individual expulsions to Morocco without observing relevant Spanish legal procedures, where persons concerned could be at risk of suffering human rights violations, including enforced disappearances.

Amnesty International urges Spain to implement the recommendations contained in the reports of the Working Group and of the Special Rapporteur and to report back to the Human Rights Council on the measures taken to do so.

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13 A/HRC/27/49/Add.1, paragraphs 53 and 67 (jj).

14 For further information, see "Spain: Out of the shadows: Time to end incommunicado detention", AI Index" EUR 41/001/2009, September 2009, available at http://www.amnesty.org/en/library/info/EUR41/001/2009/en

15 See, for example, Preliminary Observations of the Human Rights Committee: Peru, UN doc.: CCPR/C/79/Add.67, para 17, 25 July 1996. The UN Special Rapporteur on torture and other cruel, inhuman or degrading stated, in his report on his visit to Spain in 2003, that "although torture or ill-treatment is not systematic in Spain, the system of detention as it is practised allows torture or ill-treatment to occur, in particular in regard to persons detained incommunicado in connection with terrorist-related activities." (E/CN.4/2004/56/Add.2, 6 February 2004, paragraph 41).

16 A/HRC/27/49/Add.1, paragraph 54.

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Human Rights Council
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Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The HRC must urge States to address gender discrimination and accelerate efforts to address preventable maternal mortality and morbidity

"Understanding maternal mortality and morbidity as a matter of human rights requires recognition that the death and grievous injuries sustained by women during pregnancy and childbirth are not inevitable events but rather a direct result of discriminatory laws and practices, failures to establish and maintain functioning health systems and services, and a lack of accountability.", OHCHR report A/HRC/27/20[1]

Amnesty International welcomes the growing political commitment by UN member states towards a comprehensive human rights based approach to eradicating preventable maternal mortality and morbidity, expressed in recent resolutions adopted by the UN Human Rights Council.[2] We also welcome the practical steps undertaken by the Office of the High Commissioner for Human Rights (OHCHR) to help member states translate into practical implementation strategies their human rights obligations and the political commitments they have made to reduce maternal mortality and ensure universal access to sexual and reproductive health. These actions include the OHCHR study on preventable Maternal Mortality and Morbidity and human rights[3]; identifying good practices in adopting a human rights based approach to eliminating preventable Maternal Mortality and Morbidity[4]; developing technical guidance on the application of a human rights based approach to the implementation of policies and programmes to reduce preventable Maternal Mortality and Morbidity[5] and compiling a report on the application of the technical guidance by member states, relevant UN agencies and other stakeholders.[6]

We welcome the growing consensus within UN bodies that full implementation of human rights obligations requires the elimination of preventable Maternal Mortality and Morbidity. A human rights approach means that health systems are strengthened to cater for sexual and reproductive health of different groups of women and girls by providing comprehensive and integrated sexual and reproductive health information and services including the full range of modern contraceptive methods. It also requires prevention and treatment of HIV and other sexually transmitted infections; provision of ante- and post-natal care and emergency obstetric services; provision of safe and legal abortion services and post-abortion care and prevention and treatment of reproductive conditions or diseases. Quality maternal health services should be provided in a manner fully consistent with human rights, including the individual's right to privacy, confidentiality and to make informed decisions without discrimination, coercion or violence. Services should not exclude any groups – for instance, girls and young women, those who are unmarried, or lesbian, gay, bisexual or transgender people.[7] Health workers should be trained[8] to provide services without discrimination against women and girls from any group. Other barriers, such as distance from health services, financial resources and language that prevent women and girls from accessing health services should be addressed.

We welcome the consensus that effective strategies to eradicate preventable Maternal Mortality and Morbidity must empower women and girls to make decisions about their health. Gender discrimination prevents women and girls from controlling their bodies, lives and reproductive health choices and this has been recognised as an important factor in preventable Maternal Mortality and Morbidity. Yet, to date, **insufficient efforts have been made to address gender**

[1] Application of the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal mortality and morbidity, Report of the Office of the High Commissioner for Human Rights, A/HRC/27/20, paragraph 4.
[2] A/HRC/11/18; A/HRC/15/17; A/HRC/18/2; A/HRC/21/6;
[3] A/HRC/14/39
[4] A/HRC/18/27
[5] A/HRC/21/22
[6] A/HRC/21/20
[7] CEDAW General Recommendation 24, para. 22.
[8] Ibid. para. 31(f).

discrimination, including discriminatory stereotypes and attitudes towards women and girls that result in high rates of preventable Maternal Mortality and Morbidity.

For example, Amnesty International's research in **Nepal**[9] shows that gender discrimination is closely related to the risk factors for uterine prolapse, a condition Nepali women experience at high rates, many at a relatively young age (under 30). The government of Nepal acknowledged the link between human rights and preventable maternal morbidity in July 2014 when it included the intention to "adopt preventive measures to end uterine prolapse" in its Five Year National Human Rights Action Plan. The government's stated intention to adopt preventive measures is welcome. These measures must empower women and girls to make decisions about their sexual and reproductive lives and health so they can reduce their risk of developing the condition. These should include measures to prevent early marriage and gender-based violence, to eradicate discriminatory attitudes which result in husbands or other family members making decisions about whether women may use contraception, take rest during and after pregnancy or seek healthcare, improve access to skilled birth attendants and contraception. Measures should address serious disparities in access to reproductive health services experienced by particular groups of women such as Dalit women and Muslim women. The government should ensure that clear procedures are put in place for monitoring the effectiveness of the measures taken.

Unmet need for contraception, lack of comprehensive sexuality education and information, and **child, early and forced marriage are also factors contributing to preventable Maternal Mortality and Morbidity.** Amnesty International's research in **Burkina Faso**[10], which had a maternal mortality rate of 341 per 100,000 live births in 2010[11], found that women and adolescent girls face multiple barriers in accessing sexual health related information and contraception. The law does not require women and girls to obtain consent from their spouse or parents to access contraception. However, in practice cultural attitudes mean women and girls must ask permission to visit a health centre. Those without independent financial resources also have to ask for money to pay for contraception. Women and girls have a lower social status and are frequently denied the right to make decisions about their physical health and well-being - by their husbands or other male relatives. Young people have alarmingly limited access to information and sexuality education inside or outside school. Early and forced marriages are common, particularly in rural areas and among communities living in poverty. The lack of access to information, sexuality education, contraceptives and the prevalence of sexual violence and early and forced marriage contribute to unplanned and early pregnancies, which can lead to unsafe abortion or early childbirth, both of which put the health and lives of girls at risk.

Unsafe abortions are the third leading cause of maternal deaths – about 13% globally, according to the World Health Organisation (WHO). The WHO estimates that in 2008, 21.6 million unsafe abortions took place globally, leading to the deaths of 47,000 women and disabilities for an additional 5 million.[12] The WHO figures reflect that globally deaths and morbidity resulting from abortion are high in countries where access to abortion is legally restricted.[13] **El Salvador**'s total abortion ban, which criminalises abortion in all cases, severely compromises the lives and health of thousands women and girls who are forced to rely on unsafe clandestine abortions or have suffered miscarriage (pregnant women who arrive at hospital suffering blood loss or other problems due to miscarriages or unsafe abortions may face criminal prosecution) . It leads to the arbitrary and unjust imprisonment of women and girls for 'crimes', which in reality amount to attempting to exercise their basic human rights to physical and mental integrity. Persistent gender discrimination and inequality in Salvadoran society is at the root of women and girls' inability to exercise their human rights. Salvadoran lawyers, health professionals and women interviewed by Amnesty International[14] have identified as a concern the discriminatory stereotypes around women's primary role as child bearers and mothers, including placing unreasonable obligations on women to protect foetal life. These harmful stereotypes have negatively influenced the development of laws, policies and practices, including the total ban on abortion and its criminalization and the response by the health care and criminal systems.

[9] Amnesty International, ASA 31/001/2014
[10] Amnesty International, AFR 60/001/2009 and a forthcoming report
[11] DHS 2010, http://dhsprogram.com/pubs/pdf/FR256/FR256.pdf [last accessed 4 September 2014]
[12] http://whqlibdoc.who.int/publications/2011/9789241501118_eng.pdf?ua=1 [last accessed 4 September 2014]
[13] Ibid.
[14] Forthcoming report to be published in September 2014

A human rights approach to tackling preventable Maternal Mortality and Morbidity requires strengthening accountability mechanisms within the health and justice systems. This calls for improved capacity of states for collection and disaggregation of data in order to design, implement and monitor policies and programmes to ensure they do not exclude members of particular groups. Maternal Mortality and Morbidity policies and programmes should be developed with the full participation of women and girls. A key element to accountability includes ensuring access to justice and remedies when violations of sexual and reproductive rights occur.

Amnesty International calls on the Human Rights Council to urge all States to:

- accelerate efforts to apply the OHCHR technical guidance, in particular to tackle the root causes of preventable Maternal Mortality and Morbidity by eliminating gender discrimination that impedes women's and girls' access to health and contributes to preventable Maternal Mortality and Morbidity;

- empower women and girls through provision of sexual and reproductive health information and education, eliminate discriminatory barriers to their access to sexual and reproductive health, including laws criminalising abortion or provision of sexuality related information and any requirement for third party consent to access sexual health information, contraceptives or other services;

- apply the OHCHR technical guidance to strengthen accountability mechanisms within their healthcare and justice systems, and ensure the effective participation of women and girls in formulation of policies that affect their health;

- apply the OHCHR technical guidance to the design, implementation and monitoring of policies and programmes for reduction of preventable Maternal Mortality and Morbidity in the post-2015 development agenda context.